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RWE Generation (UK) plc response to the Five Year Review of the Capacity Market Rules – First Policy Consultation

28th May 2019

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 CM broadly works well with other markets. The ability to participate in other markets is crucial in allowing participants to offer the best possible value to consumers in the CM. However, that does not mean that providers that are not capable of delivering firm capacity because of other commitments should by default be able to avoid CM obligations. The concept of Relevant Balancing Services was not introduced to allow participation in the CM for providers of those services, but rather was introduced to ensure that the incentives were not such that providers of certain services would choose to deliver capacity during times of system stress rather than continuing to provide key system services.

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

We do not have evidence of this.

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

Interactions between markets will be best served by clear and transparent pricing signals and a level playing-field for all participants and exposure to the same risks and opportunities. This will allow participants in the CM to take a view on other potential income streams when assessing their CM bids. Balancing services are moving towards shorter term contracts and more dynamic pricing. This is a welcome development and will be good for customers and will allow the most efficient providers of energy and balancing services to be most competitive in the CM. However, at the same time, large scale reforms of gas and electricity charging are being implemented with a lack of clarity over what the final impacts will be. Without sufficient lead-times for implementation, this will lead to inefficient bidding in the CM as parties will each try to forecast the financial consequences.

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?

The proposed membership is appropriate, although the possible size of the group has not been suggested in the consultation. It is important that sufficient participation from industry is facilitated to gain the widest range of views. While trade associations can provide a valuable function in such groups, they are not always able to reflect the range of views of their membership, which may be very diverse. The frequency of meetings will need to be considered alongside clear terms of reference. It may be that concentrated periods of activity for the group may be appropriate rather than shorter but more frequent meetings. However, this could result in difficulties for individual members if the periods of increased activity coincided with other obligations.

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 agree that the group could improve the change process for CM Rules. However, a number of aspects of the role of the group would need to be detailed in the terms of reference. These would include how the membership is chosen (including its duration or rotation), the powers of the group to accept or reject urgency requests and the ability of parties to challenge decisions or recommendations made by the group.

There is a clear risk that the group could simply add to the workload that the industry faced in dealing with the change process. While the membership may be drawn from a wide range of industry interests, not all topics will be relevant to all participants and it may be more productive to establish groups to consider particular subjects in greater detail than to have a single group considering all change proposals.

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?

We support the proposed 18 month implementation timescale for non-urgent changes. The process would allow for greater industry involvement in their development and implementation.

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?

RWE believes that the current prequalification process does not create barriers to participation and is accessible to all. The ability to 'roll over' an application more or less exists at the moment and we see no great benefit in changing the existing facilities for using the same CMU where no details have changed or 'cloning' where changes have occurred. Where data such as historic output is submitted, it is in any case likely that changes to the Application would need to be made. In any case, if Ofgem

is minded to proceed with the proposed changes, then we would suggest that the updated directors' declarations should certify either that the material circumstances of the CMU have not changed, or if changed, they have been updated appropriately, as specified in paragraph 3.11.1 of the consultation proposal.

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?

We recommend separating the process of qualifying individual CMUs from the company specific applications to participate in auctions. As such, we do not agree with the need for an extended period for making application submissions. However, there is no reason why the portal should not be open for longer for the preparation of applications and in particular for entering and updating technical data for CMUs. However, if Rule changes are made, then the functionality of the portal may need to change also. It is therefore important that applications and the directors' certificates are made in full knowledge of the latest Rules and therefore there is a strong case for ensuring that such certificates and their submission should be dated and made after any updates to the Rules in advance of prequalification.

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 agree that Option 1 (the ability to provide evidence of relevant planning consent by the time of the Financial Commitment Milestone) seems to allow enough flexibility to applicants so secure their consents at a reasonable time. We suggest that this should apply equally to Development Consent Orders or other types of planning permission. We take this opportunity to query that there should be a relevant dispensation of evidence when the applicant is relying on its permitted development rights under a General Permitted Development Order for bringing their CMU forward.

We note that although the submission of the relevant planning consent is relevant and logical. However, we have encountered a number of practical difficulties in relation to the assessment of planning consents by the Delivery Body. For example, postcodes may not be identical in all documents and there should therefore be a level of pragmatism when considering planning consents and related documentation by the Delivery Body.

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

We agree that a number of prequalification requirements should not cause a rejection and so could reasonably be delayed.

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?

The burden of providing progress reports and ITE assessments could be significantly lightened. However, we recommend aligning this with clear incentives through the penalty regime to identify if a CMU is likely to have its CM Agreement terminated and to differentiate between termination that occurs before the relevant T-1 Auction and a termination that occurs after the relevant T-1 auction.

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?

We see no reason why different criteria should be applied to Secondary Trading Entrants compared with other categories of Acceptable Transferees. Therefore, all sub-paragraphs should apply equally, subject to any changes that may be required. For example, 9.2.6(d)(i) places a requirement on transmission connected CMUs, but no equivalent requirement on distribution connected CMUs. Also, 9.2.6(d)(ii)(bb) needs to be reviewed as it makes little or no sense and may be impossible to meet the requirements of.

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?

It is appropriate for all prequalified parties for the CM for that year to become qualified for secondary trading, provided that they continue to meet the necessary requirements.

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

The register should contain the information necessary to determine that a CMU has met the necessary requirements as an Acceptable Transferee. Applicants should able to indicate whether they wish to have a CMU visible on the Register by a simple flag available in the Portal. Applicants should be responsible for ensuring that the data is up to date such that if a transfer is completed for which they are no longer an Acceptable Transferee, they are exposed to any resulting termination penalties should they arise.

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?

We would not expect much demand for trades of 0.5MW but, provided that other criteria are met for the transfers, agree that it should be possible.

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?

The period should be reduced to the shortest possible time. With an up to date register of Acceptable Transferees, we see no reason why an automated process should not be capable of completing a transfer the following working day.

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?

We think that the period should be capable of being significantly reduced. We would suggest not more than a month as an appropriate period unless the Delivery Body can provide specific evidence why this is not achievable.

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

We agree that there should be a timeframe by which NGESO should respond to a trade request. Any subsequent rejection should be accompanied by clear reasoning. However, we see no reason why, with an appropriate register of Acceptable Transferees, the process should not be automated and responsibility put on the Transferee to ensure that they remain eligible. NGESO should also be encouraged to respond to requests earlier than any maximum period set out in the Rules.

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?

We agree with the extension of the trading window. Current Rules require CMUs that for any reason find that they are unlikely to be able to meet the obligations of the CM to keep incurring costs in order to avoid potential termination. It would be more efficient to allow secondary trading to take place earlier in order for parties to be able to manage their risks.

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

It should be possible for a new-build CMU holding a Capacity Agreement to trade out of the periods up to the long-stop date for completion without having met their SCM. However, beyond that point, it should be necessary to have met the SCM in order to avoid the potential for a new build CMU to secure a long-term agreement and then secondary trade each year without completing the SCM.

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

This would depend on the time of the trade. If done sufficiently long in advance, then it should be possible for a Transferee to take on an obligation without having completed their SCM, provided that they are then required to meet the necessary milestones in order to be able to meet the obligations. Once transferred, the obligations should remain with the Transferee.

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

There should be no reason for a transferred agreement or part of an agreement to be withdrawn after a transfer has been registered. Once transferred, the obligation should sit with the Transferee irrespective of what happens to the Transferor. Especially where a whole or partial transfer has taken place for a full Delivery Year, there should a clear transfer of obligations and associated risks.

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?

Once any part of an agreement has been transferred for a full Delivery Year, there should be no further connection between the Transferor and Transferee. This should also be the case where a transfer is completed for the remainder of a Delivery Year from the point when a transfer is registered.

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

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?

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

We can see no particular reason why there should be any restriction on what can be amended, provided that the CMU continues to meet its de-rated capacity (potentially using a different de-rating factor).

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

We believe that there is merit in having a single Capacity Market Register rather than specific registers for each auction. The Rules only refer to a 'Register', implying that there should be a single database rather than multiple individual spreadsheets. The benefits of a single register would be in being able to identify all CMUs that have an agreement for a particular Delivery Year, irrespective of the particular auction in which it had been secured, in order to simplify secondary trading and CMVRN opportunities.

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

There should be a consistent approach as between interconnectors and other CMUs. Only the amount by which imports have been reduced as a result of an instruction from the ESO should be taken into account in calculating ALFCO.

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?

In principle, intertrips should be included as an RBS, but there are practical difficulties that would need to be addressed. The calculation of the adjustment to be made for an RBS depends on the difference between the MEL of a CMU and its PN. However, in the case of intertrips where a generator has been instructed to remain de-synchronised after a trip or has been instructed not to exceed a particular output level, the MEL will be reduced to below the PN in order to reflect a continuing instruction from National Grid. As the ESO can remove a restriction at any time, the PN is likely to remain in place, to reflect the generator's intentions once the restriction is lifted.

Therefore, while we believe that there should be recognition of the restrictions that may be imposed on a generator following an intertrip, work would need to be done to agree an approach that works with the particular requirements of intertrip. In the meantime, we recommend that the full volume up to a CMU's PN should be taken into account where the ESO confirms that an intertrip has taken place and that there is a continuing restriction on the output of the unit.

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

There may be reasons why a DNO might have to curtail the output of any connection in the event of unforeseen circumstances. However, where a user has chosen to accept an interruptible agreement in order to achieve an earlier or cheaper connection, this should be considered to be non-firm.

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?

It is difficult to comment on this without knowledge of the different types of non-firm connection agreements that may exist.

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 believe that there could be significant improvement in the performance of the Delivery Body in discharging its obligations. Beyond incentives, there is a perception that the Delivery Body is restricted in its actions by virtue of its interpretation of Rules and Regulations. Therefore, there should be a review of what, if anything, is preventing the Delivery Body from, for example, being

more proactive in identifying issues with prequalification applications and how it applies its own assessment criteria, which can on occasion appear excessively restrictive.

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

With respect to the individual incentives, we do not see a need to single out one particular technology (DSR) and suggest that any incentive should be technology neutral.

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

Any incentives should focus on delivering the core functions of the Delivery Body. At this time, prequalification and secondary trading are two if the key areas where participants may face particular difficulties and where National Grid could focus efforts. With respect to prequalification, the Delivery Body should be incentivised to be more proactive in how it interacts with Applicants ahead of the submissions deadline for prequalification requests. With respect to secondary trading, we believe that there should be incentives on accurate processing of applications and a reduction of the time taken to process. This should then drive the Delivery Body toward the automation of processes and, where necessary, proposing Rule changes that could facilitate efficient management of Capacity Agreements.

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

It is part of UK Regulations that the amount of capacity procured for each Delivery Year should result in a long-term average figure for Loss of Load Expectation (LOLE). We therefore see little need for an incentive to comply with UK Regulations as this should occur in any case as part of the Delivery Body's duties.

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?

We agree that an incentive based on the proportion of decisions overturned is more appropriate than an absolute level.

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?

We consider that all participants should be treated equally by the Delivery Body and therefore would not advocate incentives aimed at any particular section of participants.

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 have no comments with respect to this question.

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?

We have no comments with respect to this question.

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?

We consider that the separation of roles remains appropriate, but the need for formal separation and ring-fencing of activities is greatly reduced following the separation of NGESO from the rest of National Grid.