

## Statutory Consultation on Capacity Market Rule Changes

18 June 2021

### About Energy UK

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering almost all (90%) of both the UK's power generation and energy supply for over 27 million UK homes as well as businesses.

The energy industry invests over £13.1bn annually, delivers around £85.6bn in economic activity through its supply chain and interaction with other sectors, and supports over 764,000 jobs in every corner of the country.

### Summary

We would like to thank Ofgem for the opportunity to respond to this consultation and can confirm that we are happy for our response to be published.

Whilst we are broadly supportive of the proposals as set out in the Ofgem Consultation Document, we would like to express disappointment in the delayed publication of this consultation. Whilst we sympathise with the resource constraints that Ofgem is under, we request that in the future Ofgem ensures that any changes to the rules are clearly signposted, brought into force and appropriate guidance provided well-ahead of prequalification opening. More importantly, we ask that any guidance that may affect an applicant's prequalification submission is published at least 8 weeks prior to the prequalification window opening.

We would also like to take this opportunity to request further information and an update on Secondary Trading and Capacity Market (CM) advisory Board. Firstly, with regards to secondary trading, an explanation of the reasons as to why this work is taking a long time would be strongly welcomed by Energy UK members. Additionally, we would welcome reassurance that Ofgem and BEIS are working collaboratively on the secondary trading and connection capacity. We hold concerns that lack of communication could be leading to significant delays. In terms of the Advisory Board, we would welcome further information detailing when this will be set up and request increased transparency around the selection process.

### The proposals

We are broadly supportive of the proposals set out in the Ofgem Statutory Consultation on CM Rule Changes document. Please see below our response to the following issues:

#### *Evergreen Prequalification*

Energy UK would like to express disappointment that Evergreen Prequalification will not be adopted in 2021, however, we welcome that it will be in place in time for the 2022 Prequalification window opening. We believe that automatic 'Evergreen' prequalification mitigates any potential 'tripwires' in terms of administrative errors, giving the option for participants to edit information if a material change has occurred since the last prequalification round. However, there is currently no mention that Ofgem would be willing accept signatures from company employees who have delegated authority, rather than requiring it to be Directors' signature. We request that Ofgem considers this option for future prequalification windows.

#### *Relevant Balancing Services*

We welcome that Dynamic Containment (DC) will be included as a Relevant Balancing Service (RBS) and we also support the wider changes to RBS. However, in the context of the 10-year review, there is potentially further work that needs to be done to adequately calculate the value on the system of storage assets operating in response services in a stress event. This is particularly important given that DC is to be procured in Electricity Forward Agreement (EFA) Blocks rather than per day, and eventually Dynamic Regulation (DR) and Dynamic Moderation (DM) will be done per settlement period. This could potentially put some units in a difficult situation where there is a stress event that straddles multiple blocks, for which they're only partially contracted. Whilst we cannot offer any definitive solutions at present, we feel this is an issue that Ofgem and BEIS should take into account when considering any redesigns of the market.

#### *Relevant Planning Consents*

We support the changes to the relevant planning consents; we believe this to be a sensible approach that will reduce burden on participants. We especially welcome that Ofgem has ensured the process is easier for applicants that are not legal owner of assets, however, we believe that there are some discrepancies in the drafting which we would welcome further engagement with Ofgem on in order to feed back.

Further relating to Question 5 in the consultation document, we would like to emphasise that although the flexibility to redistribute Capacity is important, we believe it is vital that this takes place before auction entry confirmation. Energy UK members hold concerns that if it happens after that point then it could potentially place CM providers in a legally dubious position of knowingly taking unviable units into the auction if they can't make necessary arrangements.

#### *Maximum Obligation Period*

We are in favour of the Maximum Obligation period changes as set out by Ofgem, and believe providers should have the ability to set their duration as any length provided, they meet the necessary thresholds. However, we would welcome clarity regarding whether it is possible for the same Capacity Market Unit (CMU) to obtain multiple multi-year agreements. For example, it is theoretically possible to get a two-year CM agreement followed by a longer term one, if you apportion your Capex a certain way.

#### *Electronic Signature Date Format*

One further thing we would like Ofgem to be aware of and consider making clear in the guidance is the date format for electronic signatures. Many Energy UK members will be using *DocuSign* to submit electronic signatures, which by default applies an American date format of mm/dd/yyyy as opposed to the British version of dd/mm/yyyy. The format can however, be changed in the overall settings (not on a document-by-document basis). We are concerned that this could cause some confusion and perceived mistakes could be made if applicants are not aware of this. We note that Exhibit A is very clear that the date format must be dd/mm/yyyy. We feel it is worth Ofgem highlighting this in the guidance with words to the effect of: "*make sure that you have set the date format to dd/mm/yyyy*" to mitigate confusion or potential error.

#### **Other Questions:**

Further to the points made above, we would welcome clarification on the following issues:

- We would like to request further information on the modifications being submitted by members but not consulted on. Some Energy UK members are concerned these are simply not being picked up.
- We would welcome further information on the process for improving governance.
- Some Energy UK members would welcome the auctions being moved forward to allow participants four years to deliver a new build plant. Is this something Ofgem is considering?
- We would welcome engagement around the process for ever green pre-qualification. Firstly, it would be useful to understand, for example, if the base case will be based on 2021 pre-

qualification information or if the intention will be for this to start from 2022. Secondly, at present a site can be included in T-1 and T-4 auctions but is effectively duplicated in the portal, requiring changes to be made twice, we would welcome clarity as to whether the future evergreen pre-qualification changes also address this issue?

- Finally, we feel it is worth bringing to Ofgem's attention, the problem with multiple Capacity Market Notices (CMNs) being issued this year, which can be misleading to participants. As CMNs do not take into account interconnector flows (as these only become known around mid-day), it has resulted in several CMNs being issued and subsequently withdrawn soon after the interconnector flows are taken account of. We would like to request that Ofgem, BEIS and National Grid ESO look into addressing this issue as a priority.

We would like to thank you in advance for considering our response and look forward to hearing further clarification of the next steps in due course. If you have any questions regarding our response in the meantime, please do not hesitate to contact me on the details below.

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