

Email to: [EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk)

18<sup>th</sup> June 2021

Dear Sohail,

### **Statutory Consultation on Capacity Market Rules change proposals**

We welcome the opportunity to respond to Ofgem's consultation on their minded to position following the publication and closure of the July 2020 Capacity Market Rules change consultation.

EDF is the UK's largest producer of low carbon electricity. We operate low carbon nuclear power stations and are building the first of a new generation of nuclear plants. We also have a large and growing portfolio of renewable generation, including onshore and offshore wind, as well as coal and gas stations and energy storage. We have around five million electricity and gas customer accounts, including residential and business users. EDF is committed to building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

We broadly support the majority of Ofgem's minded-to-position on the seven rule proposals and the draft rule amendments for four of these proposals which are due to be implemented for the 2021 Prequalification period. We have provided our detailed responses to the consultation questions in the appendix below.

More generally we are disappointed about the timing and slow pace of change on some of these rule changes which were consulted on in Summer 2020 as this leaves little time before pre-qualification. We urge Ofgem to expedite required changes where possible, and provide at least 8 weeks' notice of any rule change that may affect a participant's submission prior to the pre-qualification window opening.

I hope you find our response useful and I can confirm that it is not confidential. Should you wish to discuss any of the issues raised in our response or have any queries, please contact John Costa on 020 8935 2793.

Yours sincerely



Mark Cox  
**Head of Nuclear Policy and Wholesale Market Policy and Regulation**

## Appendix – consultation question responses

### **Question 1: Do you have any comments on the proposed revised governance framework and change process for the Relevant Balancing Services?**

We agree with adding Dynamic Containment as a RBS and also Dynamic Regulation and Modulation products.

In terms of the framework for future RBS, we agree the current Rules located in Schedule 4 could be moved to a Delivery Body owned formal guidance document (the “Relevant Balancing Services Guidelines”) who would then review changes with industry as and when necessary or requested by Industry. We agree Ofgem could retain corresponding oversight and approval however we ask that there is proper governance around amending the table and in particular when deciding to remove a RBS from the list. It is important to ensure that once a RBS is added that it stays on the list to provide protection for Capacity Market participants, especially those taking a long-term contract in the T-4 auctions. We have proposed some tweaks to the rules drafted to reflect this in Q2 below.

In terms of DNOs services it is good that the RBS list is flexible enough to accommodate balancing services at DNO level to the extent they are providing a service and relief at Transmission level.

### **Question 2: Do you have any comments on the specific Rule amendments proposed in Annex A?**

Regarding our point above about proper governance around changing the RBS we believe the rule in Schedule 4 should read:

*The Delivery Body: (a) must, on the request of the Secretary of State or the Authority, and (b) ~~may~~ **must**, at any other time consult with interested parties for not less than 28 days as to whether the Relevant Balancing Services Guidelines are fit for purpose and/or whether the inclusion of additional services (for which the Delivery Body may make proposals), or deletions thereof, would be beneficial.*

### **Question 3: Do you have any comments on the definitions of “Declared Availability” and “Contracted Output” outlined in Table 4?**

We agree with the definitions of Declared Availability and contracted output set out in Table 4 and welcome the rules around consultation by the delivery body should they need to be changed.

### **Question 4: We believe the process for an Applicant to declare that RPC has been obtained is no different to the existing process where the declaration is made within the Portal via a checkbox. Do stakeholders foresee any further changes required to be made to the existing declaration process to facilitate our proposal?**

We support relaxing the rules such that Applicants would no longer be required to submit planning consent documents but rather submit a declaration stating they have or will achieve Relevant Planning Consents ("RPC") 22 Working Days prior to the Auction. This will reduce administrative burden on participants and we don't foresee any further changes needed to facilitate it.

In terms of the review of the Capacity Market Register we are pleased that Ofgem will update the Rules to align with the Delivery Body's current operating practice and give an updated position on CP270 and CP271 which would allow information published on the CMR to be at Capacity Market Unit ("CMU") component level. As stated, these modifications have been outstanding for some time despite Ofgem's minded-to-decision to implement them and we would like to see a decision as soon as possible ahead of the next pre-qualification times lines which have now been published<sup>1</sup>.

**Question 5: In scenarios where capacity is required to be redistributed among components, specifically where RPC has been deferred, do stakeholders believe that deadlines should be prescribed to ensure these changes are enacted before confirmation of entry to the relevant Auction?**

Yes we agree timelines should be prescribed and adhered to ensure changes are enacted with as much lead time as possible before entry into a relevant auction. This will prevent any legal issues arising with units being taken into the CM auction when they don't have the necessary arrangements in place.

**Question 6: Do you have any comments on the Rule drafting provided in Annex A?**

No.

**Question 7: Do you agree with our suggestion to amend the definition of Maximum Obligation Period to allow greater flexibility for Prospective Generating CMUs in selecting a Capacity Agreement length?**

Yes, we can see how paragraph (b) of the existing definition of MOP "might" preclude Prospective Generating CMUs from bidding for 3 year Capacity Market Agreements as a result of their QCE exceeding the Fifteen Year Minimum £/kW Threshold. However, we also note that the thresholds are just maximum threshold periods and our understanding is that capacity market agreements can be granted for a lower number of years, for example 5, 6 or 8 etc years.

**Question 8: Do you foresee any unintended consequences as a result of implementing this proposal?**

No.

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<sup>1</sup> [https://protect-eu.mimecast.com/s/WQTDCK6NOsrwm97tM8hp\\_?domain=emrdeliverybody.com](https://protect-eu.mimecast.com/s/WQTDCK6NOsrwm97tM8hp_?domain=emrdeliverybody.com)