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## Statutory Consultation on Capacity Market Rules change proposals

Dear Sohail,

The EMR Delivery Body (hereafter the Delivery Body), within National Grid Electricity System Operator (NGESO), welcomes the opportunity to respond to Ofgem's Statutory Consultation on Capacity Market Rules change proposals. This response is not confidential.

As the Delivery Body, we are responsible for administering key elements of the Capacity Market (CM) and Contracts for Difference mechanisms. Our role in the CM is to pre-qualify applicants, run capacity auctions, maintain the CM Register and manage Capacity Agreements. The Delivery Body also works closely with BEIS and Ofgem to ensure that the CM Rules and Regulations are implemented to enable competitive capacity procurement and to facilitate the efficient operation of the CM, now and in the future.

The Delivery Body is generally supportive of Ofgem's current minded-to position on the Rules proposals outlined in the consultation document. We welcome acknowledgement of the collaborative effort of all Delivery Partners to agree a joint work programme to deliver regulatory changes for 2021 and to defer the implementation of several proposals until 2022. This notwithstanding, we observe that the timescale from final Rules being laid to the implementation of 2021 change proposals, in to our business processes and system, is notably shorter than the 12 month implementation window proposed by Ofgem, and welcomed by the Delivery Body, in its policy consultation of 2019. Applicants, and Capacity Providers, will therefore have only limited time to become fully acquainted with new and/or amended requirements and to manage any impact on their own internal processes, prior to the opening of Prequalification. The Delivery Body will publish guidance material that appropriately supports new and existing participants through the Prequalification process and remains committed to producing fully co-created guidance, with our customers going forward. We would, however, reinforce that an achievable Rules change and implementation timescale is a vital prerequisite to achieving this.

Ofgem's statement that Rules proposals deferred for implementation in 2022 will be subject to the continuation of the Delivery Partner's joint work programme is welcomed and the Delivery Body wishes to express its continued support for the joint work programme. As already highlighted to Ofgem, it is essential that any change proposals for the 2022 Prequalification process, and beyond, are considered in the context of the new EMR portal project. The Delivery Body is applying an agile, modular approach to the development and delivery of the new portal; however, the timeliness of the annual Rules change process remains a critical dependency for 2022 implementation. Early clarity on Ofgem expectation and associated Rules changes for Evergreen Prequalification is required by August 2021, along with clear policy direction on amendments to Rule 4.4.4. Given the complexity and size of both changes, it is key that the Delivery Body is afforded as close to a 12-month implementation window, as possible, to develop system solutions, once Rules changes are finalised, and maintain its timeline for delivering the new portal programme. We do, however, recognise that in the eventuality of an urgent change being raised then flexibility on implementation timescales is required.

The Delivery Body remains supportive of the proposal to introduce the Capacity Market Advisory Group (CMAG). We believe the CMAG has the potential to serve as a useful tool to create efficiencies in the current Rules change process and to drive forward targeted changes that are fit for purpose, here and now, and are also

appropriate to the future evolution of the CM. This said, the Delivery Body is keen to better understand, at a practical level, how the CMAG will function to deliver a more dynamic and consultative approach to future Rules change and what, if any, role Ofgem anticipates it will play in progressing those change proposals already identified for 2022 delivery. More broadly, the Delivery Body is of the position that the greatest value for customers, the CM objective of security of supply and the end consumer lies in a joint BEIS and Ofgem strategy for future change that is able to deliver sizeable Rules change that will progress the long-term strategic development of the CM in a more agile and impactful way than is attainable under the prevailing piecemeal and incremental approach to change.

Our response to individual Rules proposals, where we consider it appropriate to comment, are appended to this letter.

Should you require any further information or would like to discuss any of the points raised within this response, please contact Sam Mills in the first instance [samuel.mills@nationalgrideso.com](mailto:samuel.mills@nationalgrideso.com).

Yours sincerely

A handwritten signature in black ink, appearing to be 'A Ford', written over a faint circular stamp or watermark.

Andrew Ford

EMR Delivery Body Manager

### Evergreen Prequalification

We believe that Ofgem's proposals for Evergreen Prequalification focus on delivering improvements to the existing Prequalification process rather than delivering a true Evergreen process. Albeit, the change will drive a simplified business process and system whilst also reducing some of the administrative burden on applicants.

Ofgem has proposed that Exhibits would not need to be submitted annually by Applicants where there are no changes to the same Exhibit provided in the previous year and, as such, Exhibits will no longer be year specific. The Delivery Body is generally supportive of this principle; however, we note, at this time, the absence of clear expectations from Ofgem on how the Annual Exhibit process is expected to work at a practical level. In order to support the proposed requirements, as outlined in paragraph 3.4 of the consultation, we would need a firm policy position on which of the existing Exhibits can be re-used and/or replaced with the new Annual Exhibit submission. Additional clarity is also sought on whether the previous Exhibits would form part of the Application or not.

Further, paragraph 3.5 of the consultation outlines Ofgem's expectation that the annual Exhibit will be a mandatory submission and where an Applicant fails to meet the obligation, then the Applicant is considered not to have applied for the relevant Prequalification round. The Delivery Body understands from this statement that the Applicant will continue to hold responsibility for the accuracy of the information submitted at Prequalification, including the annual Exhibit declaration that either their previous submitted Exhibits remain valid or have been amended. As defined, we consider that the content of the Application will need to be assessed at Prequalification, for completeness in its entirety and not by exception. To this point, we would welcome clarity on whether (or not) the Delivery Body will still be expected to validate the content of each application against the relevant Rules, as is done currently. Should this be the case, there is a potential risk for Applicants to be rejected in a scenario where some of the Application content that may have passed in a previous year no longer meets the requirements and the Applicant has declared that their existing application remains unchanged. We see the Prequalification requirement relating to Previous Settlement Period Performance as one such example.

Ofgem defines Evergreen Prequalification as where the Portal stores and utilises information regarding existing prequalified Capacity Market Units (CMU) and to allow re-submission of previous applications where no material changes to a CMU have occurred. It is pertinent to acknowledge that the reuse of existing prequalification data is dependent upon, and should be considered against, the new portal programme and the complexity of the associated data migration process. The Delivery Body is currently undertaking detailed planning activities for the delivery schedule required to meet Prequalification 2022 obligations and will share further details with Ofgem in the coming weeks.

### Relevant Balancing Services

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

The Delivery Body agrees with the proposed revised governance framework and change process for the Relevant Balancing Services (RBS). We believe these changes will enable the Rules to adapt at pace in response to new ancillary services and products developed by NGENSO, thereby creating process efficiencies and incentivising market participants to provide system critical balancing services.

We acknowledge that the change proposal outlined in the consultation sets out the process and requirements for future reviews of the RBS Guidelines, by the Delivery Body, as well as how the arrangements within Schedule 4 will apply. The Delivery Body understands that it will be responsible for publishing the first version of the RBS guidelines on the EMR Delivery Body website concurrent to the CM Rule amendments going live. Moreover, any subsequent reviews of the RBS Guidelines will be undertaken in accordance with the revised governance framework and change process, as detailed in the consultation.

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

The Delivery Body has reviewed the definitions of "Declared Availability" and "Contracted Output", outlined in Table 4, with input from NGENSO's Ancillary Services Development Team. This review has highlighted the need for an adjustment to the definition of "Declared Availability" for Dynamic Moderation. The necessary adjustment: "Equal to the Contracted Quantity of DM-low or DM-high or DM-high+low (as applicable)".

## Planning Consents

### **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?**

We agree with the principle that where an Applicant's Connection Capacity is greater than the maximum capacity allowable under Relevant Planning Consents (RPC), the Connection Capacity should be set to the maximum output permissible under the RPC. We note that this adjustment to Connection Capacity is applicable both at Prequalification and the deferred submission of the RPC 22 working days prior to the Auction.

Before addressing Ofgem's question, the Delivery Body would first like to highlight how the current process works when an Applicant's Connection Capacity is greater than the maximum capacity allowable under the RPC. Where this arises during the Prequalification application assessment, the Delivery Body will adjust the Connection Capacity to be in line with the maximum capacity allowable under the RPC. Conversely, where a discrepancy is identified between the Connection Capacity and maximum capacity allowable under the RPC, upon the provision of deferred the RPC documents, the Delivery Body will reject the application since the current Rules do not permit an adjustment to be made outside of Prequalification. We believe that the current process, as outlined, may no longer be practicable going forward and suggest this needs to be considered against Ofgem's new policy so that a newly agreed process is put in place and can be applied where capacity is required to be redistributed among components.

The Delivery Body does not support the minded-to position that, where the RPC declaration has been deferred, Applicants are given the opportunity to amend the redistributed capacity among components provided this is submitted by the confirmation of entry to the relevant auction. We are of the view that any change to Connection Capacity to align with the maximum capacity allowable under the RPC, including the redistribution of capacity among components, should be defined by the Applicant no later than 22 Working Days (WDs) prior to the Auction. At this stage, the Delivery Body would make the redistribution based on the approach defined by the Applicant, or where this is not provided, the redistribution methodology agreed in the Rules. The rationale for having a firm position at 22 WDs prior to the Auction is that to allow changes to be defined past this point, and before confirmation of entry to the relevant Auction, would impose a serious time challenge on the process to validate and amend an Applicant's redistributed capacity among components, as per their request. It is also important to acknowledge the risk to auction data integrity if capacity information is not firm when the confirmation of entry window closes and the impact this may have on auction assurance processes. Whilst the Delivery Body recognises that the aggregated De-rated Capacity position, which is required to be published 15 WDs prior to the commencement of the first Bidding Round for an Auction, is not a final position, nonetheless, the potential to have to wait for a decision on how capacity is to be redistributed among components until just before confirmation of entry would, we feel, add another dependency to the process.

To elaborate further on the above position, in a scenario where, at the deferred submission of the RPC (i.e. 22WDs prior to the Auction), capacity is required to be redistributed among components, we consider it preferable for Applicants to be required to inform the Delivery Body of how they wish the capacity to be redistributed, using an agreed template that can be uploaded to the portal. In the absence of any such instruction, the Delivery Body would apply a redistribution methodology to determine how the capacity is apportioned among components, for which we would ask Ofgem to provide a clear Rule to detail what and how the methodology is to be applied in order to ensure consistency and transparency of approach. We foresee there to be three available options for a redistribution methodology. These are: (1) to maximise the de-rated capacity; (2) to minimise the de-rated capacity; and (3) to pro rata the de-rated capacity. There is a need to be mindful of the potential for redistribution to result in a "0" Connection Capacity for a component where the Connection Capacity reduction is equal to or higher than the relevant component, if the option to either maximise or minimise capacity was chosen as the preferred redistribution methodology. We ask Ofgem to determine how a redistribution of capacity at component level and potentially to a "0" Connection Capacity component aligns with policy on transparency of component based capacity. The Delivery Body would reiterate that having an agreed methodology for the redistribution of capacity, that is accounted for in the Rules, is important to ensure consistency of approach and to give transparency to Applicants on how their Connection Capacity will be treated, should they not provide clear instruction to the Delivery Body by 22WDs prior to the Auction.

## Further amendments to the Rules – Maximum Obligation Period

### **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?**

The Delivery Body is comfortable that the proposed amendment to the definition of Maximum Obligation Period (MOP), as covered under Rule 1.2, gives sufficient clarity that Prospective Generating CMUs and Unproven DSR are entitled to either a 3 year or 15 year Capacity Agreement, where the Capital £/kW Qualifying Expenditure (QCE) is equal to or exceeds the three year or fifteen year thresholds and where the Prospective Generating CMU meets the other respective criteria in paragraph (a) or (b) of the definition of MOP. To support this change, the Delivery Body will make the appropriate amendments to its Standard Operating Procedures and to customer guidance for Prequalification 2021 to reflect that where the fifteen year (QCE) threshold is met, but not the Extended Years Criteria, the Maximum Obligation Period will be set to a three year Capacity Agreement, as opposed to 1 year.

On the associated amendments to Rule 3.7.2(d) and Rule 3.10.1(aa)(i), the Delivery Body agrees with the intent that these Rules provide the mechanism by which an Applicant defines the MOP that they are applying for. To ensure total clarity on this point, we recommend the re-phrasing of Rule 3.7.2(d) to read: (i) equal to or greater than the Fifteen Year Minimum £/kW Threshold and the Applicant is making an Application for a Maximum Obligation Period of Fifteen Years; (ii) equal to or greater than the Three Year Minimum £/kW Threshold and less than the Fifteen Year Minimum £/kW Threshold and the Applicant is making an application for a Maximum Obligation Period of Three Years; (iii) less than the Three Year Minimum £/kW Threshold and the Applicant is making an Application for a Maximum Obligation Period of One Year.

A system change would be required to implement the amended definition of Maximum Obligation Period, as per Rule 3.7.2(d) and Rule 3.10.1(aa)(i). The scoping of delivery requirements for Prequalification 2021 was determined in January of this year, as the outcome of the Delivery Partner's joint prioritisation and work programme, and the requirements specific to the MOP change did not form part of that exercise. The requirements for amending the definition of Maximum Obligation Period were first confirmed with the publication of this consultation document in May 2021. Consequently, this does not provide the Delivery Body with enough opportunity to deliver in time for the opening of Prequalification in July 2021.

The Delivery Body is supportive of implementing the proposed changes to Rule 3.7.2(d) and Rule 3.10.1(aa)(i) for Prequalification 2022 and will look to incorporate them in to the new portal, in accordance with Rules expectations. Equally, we recognise the policy intent behind the amended definition of MOP and Ofgem's desire to address the related issue that arose from Tier 2 Capacity Market appeals for Prequalification year 2020.

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

Within the current Portal, if an applicant is a New Build CMU or Unproven DSR CMU they are requested to confirm their Qualifying £/kW Capital Expenditure, as part of the application process, by selecting the appropriate threshold option, with the associated text for this declaration taken directly from the relevant CM Rules. The proposed amendments to Rule 3.7.2(d) and Rule 3.10.1(aa)(i) would require a change to declarations in the portal, however, this change did not form part of the delivery scope requirements and implementation timetable agreed in January 2021 and, as such, is not deliverable ahead of Prequalification 2021.

Being mindful to ensure procedural fairness for Applicants, we do not consider it suitable to deliver the change via a manual workaround since this would create misalignment between the language and terminology used in Prequalification guidance, which would give reference to the amended definition within the Rules, and that used in the Portal. Even with improved guidance, we believe there is potential for a misunderstanding of the rule requirements and for an Applicant to inadvertently follow the portal application process rather than the newly implemented Rules. Moreover, since an Applicant is making an active decision on the position of their Application, at this point, we feel this further reinforces the need for the portal to accurately align to the amended Rules expectation.