

Decision

Decision on Amendments to the Capacity Market Rules

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This document sets out our decisions regarding the implementation of Capacity Market Rules proposals discussed in our Statutory Consultation on Capacity Market Rules change proposals, published in May 2021. Having considered and taken account of stakeholder feedback received in response to our Statutory Consultation, we have decided to progress the majority of our proposed Rule amendments.

This document does not consider stakeholder feedback received for policy areas where we did not provide draft Rules in our Statutory Consultation. We will consider stakeholder feedback received on such policy areas as part of our future work on those areas.

This document also provides our Forward Work Plan and sets out our priorities and focus areas for the forthcoming year.

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Executive summary

We¹ are providing our decision on amendments to the Capacity Market Rules 2014 (as amended) (the “Rules”) consulted on in our Statutory Consultation on Capacity Market Rules change proposals² (the “May 2021 Statutory Consultation”), published on 14 May 2021. In the May 2021 Statutory Consultation, we provided our minded-to position on seven policy areas and provided draft Rules for four of these policy areas.

Our decisions in this document have been made following our review and consideration of stakeholder responses received from the May 2021 Statutory Consultation. Table 1 provides a summary of our decision for each of the Rule amendments we consulted upon in the May 2021 Statutory Consultation. We are only deciding on those areas where draft Rules were provided in the May 2021 Statutory Consultation. Other policy areas, where we presented a minded-to position, but did not provide draft Rules, will be the subject of a future consultation.

Table 1: Summary of Rule Decisions

Policy Area	OF##	Decision	Rule Amendments
Relevant Services Balancing	[OF37]	Proceed	Rule 1.2 – definition of Relevant Balancing Services Guidelines Rule 1.5.1(a) and Rule 1.5.1(b) Schedule 4: Relevant Balancing Services
Capacity Register Market	[OF38]	Proceed	Rule 7.4.1(d) Rule 7.5.1
Relevant Consents Planning	[OF39]	Proceed, with an additional Rule amendment	Rule 3.7.1 Rule 4.7.1 Rule 4.7.3 (amended) Rule 8.3.16

¹ References to the “Authority”, “Ofgem”, “us”, “we”, “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

² https://www.ofgem.gov.uk/system/files/docs/2021/05/statutory_consultation_on_capacity_market_rules_change_proposals.pdf

Maximum Obligation Period	[OF40]	Partially proceed	Rule 1.2 – definition of Maximum Obligation Period Rule 3.7.2(d)(ii) – do not proceed Rule 3.10.1(aa)(i)(bb) – do not proceed
Previous Settlement Period Performance	N/A	No longer being considered	N/A

1. Introduction

Background to this Decision Letter

1.1. We have published a number of documents between 2018 – 2021 relating to our Five Year Review of the Rules, which we were required to carry out under Rule 15.2 and Regulation 82 of the Electricity Capacity Regulation 2014 (as amended) (the “Regulations”). These documents are listed below:

- Open letter on the Five Year Review of the Capacity Market, 11 September 2018 (“Open Letter”)³
- Five Year Review of the Capacity Market Rules – First Policy Consultation, 16 April 2019 (the “First Policy Consultation”)⁴
- Decision on the first consultation on amendments to the Capacity Market Rules, 18 July 2019 (the “Decision on the First Policy Consultation”)⁵
- Report on our Five Year Review of the Capacity Market Rules and Forward Work Plan, 31 July 2019 (the “Five Year Review Report”)⁶
- Consultation on Adjustments to the Electricity Market Reform Delivery Body Revenues, 13 August 2019⁷
- Decision on Adjustments to the Electricity Market Reform Delivery Body Allowances, 30 September 2019⁸
- Capacity Market Rules change consultation, 22 July 2020⁹ (the “July 2020 Consultation”)
- Statutory Consultation on Capacity Market Rules change proposals, 14 May 2021 (the “May 2021 Statutory Consultation”)

³ <https://www.ofgem.gov.uk/publications/open-letter-five-year-review-capacity-market-rules-and-ngets-incentives>

⁴ <https://www.ofgem.gov.uk/publications/five-year-review-capacity-market-rules-first-policy-consultation>

⁵ <https://www.ofgem.gov.uk/publications/decision-statutory-consultation-amendments-capacity-market-rules-2>

⁶ <https://www.ofgem.gov.uk/publications/report-our-five-year-review-capacity-market-rules-and-forward-work-plan>

⁷ <https://www.ofgem.gov.uk/publications-and-updates/consultation-adjustments-electricity-market-reform-delivery-body-revenues>

⁸ <https://www.ofgem.gov.uk/publications-and-updates/decision-adjustments-electricity-market-reform-delivery-body-allowances>

⁹ <https://www.ofgem.gov.uk/publications-and-updates/consultation-capacity-market-rules-change-proposals>

Capacity Market Rules proposals we are deciding on

- 1.2. This letter sets out our decisions on changes to the Capacity Market Rules pursuant to Regulation 77 of the Regulations. The Rules we are deciding on will be implemented for the 2021 Capacity Market Prequalification round.
- 1.3. These decisions follow the May 2021 Statutory Consultation on Rules change proposals. Within this consultation we provided our minded-to position for a total of seven proposals and provided draft Rule amendments for four of those proposals. We also outlined our intention to bring forward a future consultation on a number of policy areas that we have consulted on previously (within the July 2020 Consultation), but which weren't the subject of the May 2021 Statutory Consultation. Table 2 summarises the Policy areas we consulted upon in the May 2021 Statutory Consultation and clarifies whether a decision on the corresponding Rule amendments is contained within this Decision Letter. For ease, the Rule amendments we are deciding on had corresponding [OF##] references which were included within the May 2021 Statutory Consultation and are also included in Table 2. We have also highlighted which policy areas consulted on previously will be included in a future consultation.

Table 2: Overview of policy areas

Policy Area	OF##	Decision included?
Relevant Services Balancing	[OF37]	Yes
Capacity Register Market	[OF38]	Yes (amendments to Rule 7.4.1(d) and Rule 7.5). The remaining proposals will be consulted on further in our proposed future consultation.
Relevant Consents Planning	[OF39]	Yes
Maximum Period Obligation	[OF40]	Yes
Applicant Notice	N/A	No – we propose this will be consulted on further in the proposed future consultation.
Evergreen Prequalification	N/A	No – we propose this will be consulted on further in the proposed future consultation.
Reporting Requirements	N/A	No – we propose this will be consulted on further in the proposed future consultation.

Amendments to Rule 4.4.4	N/A	No – we propose this will be consulted on further in the proposed future consultation.
Previous Settlement Period Performance	N/A	No – we outlined our proposal that we will not proceed with our amendments due to a holistic workstream being led by BEIS on Connection Capacity and we have confirmed this within this Decision Letter.

1.4. We received a total of 19 responses to the May 2021 Statutory Consultation and thank all stakeholders who provided feedback on our proposed changes. We note that stakeholders responded to areas such as Evergreen Prequalification and Applicant Notice and, while these areas are not directly addressed in this Decision Letter, we wish to stress that this feedback is welcome, and we will address it when we come to reviewing those policy areas as part of the proposed future consultation.

Forward Work Plan

1.5. We wish to provide stakeholders with a clear view of our priorities and Forward Work Plan over the coming months. We recognise that stakeholders have raised concerns with respect to a lack of progress on some of the areas highlighted in our Five Year Review Report, in particular the proposed creation of the Capacity Market Advisory Group (“CMAG”) and our proposed review of Secondary Trading arrangements.

1.6. To confirm, our intention remains to address the outstanding priority areas arising from the Five Year Review. These are:

- The proposed implementation of CMAG;
- A review of Secondary Trading Arrangements; and
- Outstanding policy areas and Rule proposals.

1.7. To ensure timely delivery of these priority areas, our current expectation is that the publication of our regular reports related to Electricity Market Reform will be delayed beyond their respective statutory deadlines. For clarity, these regular reports are:

- Our Annual Capacity Market Operations Report¹⁰; and
- Our Annual report on the EMR Delivery Body’s Performance of its functions in relation to the Capacity Market.¹¹

1.8. Whilst we note that this means not delivering on two specific obligations placed on the Authority, we consider that prioritisation and delivery of the workstreams highlighted in paragraph 1.6, over those mentioned in paragraph 1.7, will provide better value to both Capacity Market participants and consumers. It is our view that this prioritisation will enable greater progress to be made in achieving the second objective of the Rules, that is, to facilitate the efficient operation of the Capacity Market.

Table 3: Forward Work Plan update

Workstream	Update
CMAG	This workstream was delayed in 2020 due to resource being diverted to Ofgem’s response to the Covid-19 pandemic. We intend to provide an update and, if required, consult on the formation of CMAG by the end of Q3 2021.
Secondary Trading	<p>In the July 2020 Consultation, we indicated our plan to prioritise CMAG (in terms of issues arising from our Five Year Review) over Secondary Trading, and indicated our expectation that this group would consider the Rules around Secondary Trading. As such, given that our work on CMAG was impacted by the Covid-19 pandemic, this had knock-on impact to the delivery of a Secondary Trading workstream.</p> <p>We are currently scoping our work, and will provide an update in due course, on Secondary Trading to determine the best way forward. Options include, but are not limited to:</p> <ul style="list-style-type: none"> • An Ofgem-led review of the entire Secondary Trading arrangements;

¹⁰ <https://www.ofgem.gov.uk/publications-and-updates/annual-report-operation-capacity-market-201920>

¹¹ [Annual report on the EMR Delivery Body’s Performance of its functions in relation to the Capacity Market | Ofgem](#)

	<ul style="list-style-type: none"> • Assessment of a small number of specific Rules, which we understand to be the biggest ‘pain points’ for industry; and • Ofgem clarification of policy intent and direction relating to Secondary Trading, such that the proposed CMAG (or a sub-group) can consider the detailed arrangements
<p>Consultation on outstanding policy areas and Rule proposals</p>	<p>We intend to issue a consultation on outstanding policy areas and Rules proposals. Timelines for the consultation are currently under review and are being considered alongside the progression of both CMAG and the Secondary Trading workstreams. As part of this, we have held initial discussions with Delivery Partners regarding the timing of potential changes. This includes amendments to Rule 4.4.4.</p>

1.9. We note the additional feedback that some stakeholders have provided related to the limited number of industry rules change proposals which have been progressed since the Five Year Review. Since our last call for Rules change proposals (September 2017)¹², we have received 17 rules change proposals through the current rules change process¹³. Of these, 7 have been designated as ‘Urgent’. We have determined that none of these have met the urgency criteria, and hence they have not been progressed.

1.10. It would be possible for Ofgem to bring forward an annual Rules change process in the latter half of 2021, and into 2022, however, this would be instead of progressing CMAG. We continue to be of the view that progressing CMAG is the most efficient way to enable industry Rules change proposals to be considered and implemented, where appropriate.

1.11. Our current position is that any Rules change proposals which we are yet to consider will be added to a list to be handled by CMAG, should that group be set-up. Our initial view is that the following process, or one similar to it, would be used to merge the current process with the formation of CMAG:

¹² Open Letter on Changes to the Capacity Market Rules, 5 September 2017, https://www.ofgem.gov.uk/sites/default/files/docs/2017/09/open_letter_on_changes_to_the_capacity_market_rules_2017.pdf

¹³ <https://www.ofgem.gov.uk/publications/final-guidance-capacity-market-cm-rules>

- Ofgem publish a list of outstanding Rules change proposals on our website;
- Ofgem publish an open letter, inviting industry Rules change proposals;
- CMAG consider both historic and 'new' proposals, and suggest a priority order for bringing forward.

1.12. We will consider this further and provide greater clarity in our forthcoming update on CMAG.

Your feedback

General feedback

1.13. We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this report. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall quality of this document?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Are its conclusions balanced?
5. Did it make reasoned recommendations?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk.

2. Relevant Balancing Services

Section summary

We outline our decision on amendments to the existing list of Relevant Balancing Services (“RBS”), namely the inclusion of: Category 2 and Category 4 intertrips, Dynamic Containment (“DC”), Dynamic Regulation (“DR”) and Dynamic Moderation (“DM”). We also outline reasons for not including Trans European Replacement Reserve Exchange (“TERRE”) on the RBS list.

Separately, we provide our decision to proceed with our proposals to revise the RBS Governance framework and change process.

Background

- 2.1. In the July 2020 Consultation, we discussed proposals regarding operational intertrip schemes and how they could be accounted for within the Rules as an RBS. We proposed that intertrip schemes could be accounted for within the Adjusted Load Following Capacity Obligation (“ALFCO”) whereby the Capacity Obligation of a Capacity Market Unit (“CMU”) is adjusted proportionally to the level of service provided. This would ensure that CMUs who are providing other critical services to National Grid Electricity System Operator (“NGESO”) are not unduly penalised for their output being impacted during a System Stress Event.

Table 4: Operational intertrip services as defined in the Grid Code¹⁴

Operational intertrip service	Description
Category 1	Intertrip scheme arising from a variation to a connection design (requested by, and agreed with, a customer) consistent with the criteria specified.

¹⁴ <https://www.nationalgrideso.com/industry-information/codes/grid-code/code-documents>

Category 2	Intertrip scheme required to alleviate the overload that would occur on a circuit that connects a group containing the generator to the rest of the system.
Category 3	Intertrip scheme installed as an alternative to reinforcement of a distribution network, agreed between NGESO and the customer; where the scheme removes the risk of overloading the distribution system.
Category 4	Intertrip scheme installed at the request of NGESO under the circumstances where the use of such a scheme would be beneficial to facilitate the timely restoration of critical circuits

- 2.2. Our initial view was that Category 2 and Category 4 intertrips should be included within the RBS framework as they relate to critical system management.
- 2.3. Our view with respect to Category 1 and Category 3 intertrips was that they are inherently a customer choice, agreed between a customer and NGESO. As such, our position at the time was that they would fall outside the RBS framework, given that the customer has chosen to increase their risk profile (for example, to obtain a quicker connection to the Transmission Network).
- 2.4. In the July 2020 Consultation, we also responded to stakeholders who suggested that services CMUs provide as part of Trans European Replacement Reserve Exchange (“TERRE”) should be included as an RBS. We noted an argument could be made for its inclusion however we sought further industry views, and also noted uncertainty regarding GB’s access to the TERRE market.
- 2.5. NGESO, in their consultation response to the July 2020 Consultation, sought to include Dynamic Containment (“DC”), Dynamic Moderation (“DM”) and Dynamic Regulation (“DR”) within the RBS framework. DC was a service launched by NGESO in 2020 with DM and DR due to be released in 2022. NGESO highlighted that omitting these services from the RBS framework may penalise CMUs for providing Balancing Services, and could act as a barrier to entry to the DC, DM and DR markets.

2.6. Under the existing framework, the RBS list may only be updated through the full formal Rules change process or via an urgent Rules modification¹⁵. We recognised that the Rules should be able to adapt at pace in response to new ancillary services being developed by NGENSO, and should not act as a barrier to entry to the Capacity Market or other markets where NGENSO procure critical network services. We sought feedback from stakeholders, in the May 2021 Statutory Consultation, regarding the way in which future Balancing Services should be accounted for within the Rules.

Minded-to position

2.7. With respect to stakeholder feedback received to the July 2020 Consultation, we outlined our minded-to position regarding our proposed changes to the RBS framework in the May 2021 Statutory Consultation. This is summarised in the table below.

Table 5: Summary of our minded-to position regarding proposed changes to RBS

RBS Change	Minded-to decision
Operational intertrip services	We proposed to exclude Category 1 and Category 3 from the RBS list however we proposed to include Category 2 and Category 4 intertrip services within the RBS list.
TERRE	We were minded-to include TERRE within the RBS list once GB’s access to EU market platforms had been resolved. We proposed to monitor progress against this through the GB TERRE Implementation Group with potential changes to the RBS list managed through the proposed CMAG.
DC, DM and DR	We proposed that DC, DM and DR be included within the RBS list.
Wider changes to RBS framework	We proposed that Rules relating to RBS in Schedule 4 be transferred into a formal guidance document, the Relevant Balancing Services Guidelines (the “RBS Guidelines”) which would be owned by the Electricity Market Reform Delivery Body ¹⁶ (“Delivery Body”) with Ofgem retaining oversight and approval.

¹⁵

https://www.ofgem.gov.uk/system/files/docs/2016/09/revised_guidelines_for_the_capacity_market_rules_150916.pdf

¹⁶ National Grid Electricity System Operator (NGESO) who act as the Electricity Market Reform Delivery Body

	<p>The document would be published on the Delivery Body’s website. A summary of the process to update the document is as follows:</p> <ul style="list-style-type: none">• The Delivery Body must on the request of the Secretary of State or the Authority, or any other time, consult, for a period of 28 days, on whether the RBS Guidelines are fit for purpose and/or whether additional services should be included.• Following the close of the consultation, the Delivery Body would submit a report within 7 working days to the Authority. This would set out any proposed revisions, stakeholder responses received, and any changes to the revisions.• The Authority would then determine whether to approve or reject amendments to the RBS Guidelines, with the Delivery Body updating the RBS Guidelines within 7 days of the Authority determinations on amendments.
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2.8. We also indicated, in the May 2021 Statutory Consultation, that we continued to favour a specific list of RBS, in lieu of a principle-based approach. Our view was that this provides necessary clarity to applicants and providers as to which services are RBS and therefore exempt from certain penalties.

2.9. We further proposed to monitor the standardisation of the DNO level services to establish if these need to be captured under the RBS framework, such as to incentivise efficient market behaviour. We explained our opinion that the revised framework will allow the RBS list to be updated quickly and efficiently should a future decision be made to include DNO level services.

Consultation questions and stakeholder feedback

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

2.10. A significant majority of stakeholders agreed with our proposals to revise the governance framework and change process for RBS. Stakeholders highlighted their view that the new governance framework and change process will ensure that the RBS list could be updated at pace, as new Balancing Services are introduced to the market.

- 2.11. Two stakeholders suggested that industry should also be able to initiate a review of the RBS guidelines and one stakeholder proposed that there should be a minimum fixed schedule for review of the RBS list.
- 2.12. Two stakeholders proposed that the initial version of the RBS Guidelines should be published for comment from industry. A further stakeholder suggested that governance should be in place to ensure that specific RBS's are not easily retracted from the RBS Guidelines, and proposed amendments to the wording of Schedule 4 to facilitate this.
- 2.13. One stakeholder suggested that the definition of "RBS" should be maintained within the Rules. One other stakeholder proposed that "Declared Availability" and "Contracted Output" should be maintained within the Rules and not be transferred into the RBS Guidance. Limited reasoning was provided for this, with one stakeholder mentioning that it was unclear if the definitions would be maintained within both the Rules and the RBS Guidelines. Their view was that only one location should be used, and that they preferred this to be in the Rules.

Stakeholder comments on proposed amendments to the RBS List

- 2.14. 11 stakeholders responded in support of our proposed amendments to include DM, DC, DR, Category 2 and Category 4 intertrips in the RBS list. Notably, no stakeholders disagreed with our proposed additions to the RBS list.
- 2.15. Two stakeholders agreed with our proposal to not implement TERRE as an RBS until there is greater certainty regarding GB participation. We received no other comments from stakeholders regarding this.
- 2.16. One stakeholder raised that they did not fully understand the reasons as to why commercial intertrips had been excluded from the RBS list. They highlighted that our proposal would not account for CMUs who hold Capacity Agreements, and subsequently enter into a commercial intertrip service.
- 2.17. Three stakeholders proposed that other services should also be included within the RBS list, such as DNO services, and quick and slow reserve products. In relation to this, one other stakeholder sought clarity regarding the inclusion of Balancing Services in their trial phase.

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

2.18. Most stakeholders did not have any specific comments on the Rule amendments proposed in Annex A of the May 2021 Statutory Consultation (save for the amendment suggested in paragraph 2.12). Two stakeholders highlighted that they believed that the Rule amendments proposed were appropriate.

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

2.19. The majority of stakeholders either agreed or did not have any comments regarding our definition of “Declared Availability” and “Contracted Output”. However, we received a response from the Delivery Body proposing that an amendment to the definition of “Declared Availability” for DM was required.

Additional comments from Stakeholders

2.20. A stakeholder suggested that new Balancing Services put forward by NGESO should indicate, within their description, whether the service is considered an RBS under the Capacity Market framework.

2.21. One stakeholder reiterated concerns which they had raised in response to the July 2020 Consultation, relating to ALFCO calculations with respect to Interconnector CMUs. They felt that, while our proposed amendments are appropriate for the wider Capacity Market regime, that they did not address their concerns with ALFCO for interconnectors, and the way in which interconnectors are treated under a Stress Event.

2.22. In addition, one stakeholder raised that the timelines set out in Rule 7.5.1(o) are constrained when considering the interaction of parties involved in settlement, and that a holistic review of the wider RBS framework could overcome this potential constraint. This stakeholder proposed that a wider review of the RBS and Penalty framework may be of benefit to those parties involved in reviewing CMU performance during a system Stress Event and simplify Capacity Provider actions needed in the time sensitive period. The stakeholder proposed a revised process whereby the actions of a CMU are considered, and penalties are applied retrospectively following a Stress Event. They highlighted that this would remove the requirement of consulting on

amendments to the RBS guidelines as evaluation of CMU action during a Stress Event would be on a case-by-case basis. Focusing on delivery instructions that conflict from a Stress Event rather than a defined RBS list. The benefit opportunity stated was to future proof RBS changes, a reduction in operations and removal of the misalignment between CMUs and Balancing Mechanism Units (“BMU”) in a Stress Event scenario.

- 2.23. Two stakeholders raised an area for Ofgem to consider regarding the procurement of future Balancing Services. They raised that procurement of specific services would be moving to Electricity Forward Agreement (“EFA”) blocks, rather than per day, and others would be procured per settlement period. They highlighted that this may impact the ability of storage assets from providing full ALFCO in Stress Events that straddle two or more EFA blocks. However, the two stakeholders also noted that this would fall out of scope for this consultation but should be considered by both BEIS and Ofgem for the 10-year Capacity Market Review and any future market design workstreams.

Decision

Revised governance framework and change process for RBS

- 2.24. We have decided to proceed with our revised governance framework and change process for RBS, noting that the significant majority of stakeholders supported this. To confirm, we will proceed with our proposed amendments to Schedule 4 of the Rules as set out in the May 2021 Statutory Consultation. The Delivery Body will create the first version of the RBS Guidelines and publish them on the EMR Delivery Body website by the date the Rule amendments come into force. We see no requirement for the Delivery Body to consult separately on this first version of the RBS Guidelines, as the content (i.e., what constitutes an RBS and the updated list of RBS) and its effect has been consulted upon through the May 2021 Statutory Consultation, and responded to in this decision letter.
- 2.25. We note that stakeholders suggested further amendments which could be made to the RBS framework and governance process. These included a minimum fixed schedule for review, and industry being able to initiate a review of the RBS Guidelines. We agree there may be some benefit to these suggestions however our view is that there is no need for this to be specified in the Rules. The RBS list will be transferred into separate guidelines owned by the Delivery Body who will have a forward view of upcoming Balancing Services. As a result of this, we anticipate that reviews will be conducted when appropriate, therefore mitigating the need for scheduled reviews. We expect

that reviews would also be initiated based on industry feedback to the Delivery Body, NGENSO and / or Ofgem. However, we will monitor this area closely and will make amendments if necessary.

- 2.26. One stakeholder proposed amendments to Schedule 4 (see below) to ensure that sufficient governance is in place for retracting services from the RBS Guidance.

"The Delivery Body:

must, on the request of the Secretary of State or the Authority, and

~~*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) would be beneficial"

- 2.27. To clarify, the intent of our proposed wording above (i.e., *may*, not *must*) was to highlight that the Delivery Body can consult on changes to the RBS Guidelines **at any time** and not only on request of the Authority or Secretary of State. Ofgem will remain the decision-maker, and (after consultation with the Delivery Body, Electricity Settlements Company and such other persons as it considers desirable) will approve or reject any changes to the RBS Guidelines. Our view is that is that the governance process we have consulted on would address the concerns raised by the stakeholder and, therefore, we will not progress with their amendment at this stage.

- 2.28. Another suggestion raised by stakeholders proposed that the definitions of "RBS", "Declared Availability" and "Contracted Output" should be kept within the Rules. To confirm, we are not proposing to remove the definition of RBS from Schedule 4. However, we believe it is appropriate that the list of RBS as well as the definitions of "Declared Availability" and "Contracted Output" are located within the RBS Guidelines, rather than within the Rules. The objective of moving the definitions of these terms and the list of RBS, from Schedule 4 into a separate guidance document, is to ensure that they can be updated at pace alongside the development of new Balancing Services. If the definitions were kept within the Rules, there may be a requirement to amend the definitions as new RBS are added. The definitions could only be amended

through the existing Rules change process which would undermine the overarching objective of making changes at pace.

Amendments to the RBS list

- 2.29. We have decided not to progress with the inclusion of TERRE as an RBS as we agree with stakeholders that GB participation in TERRE is not clear at this stage. We have decided to proceed with our proposal to implement DC, DM and DR within the RBS Guidelines alongside Category 2 and Category 4 intertrip services, noting that stakeholders were supportive of these inclusions and did not raise any concerns with respect to this.
- 2.30. We received feedback from some stakeholders requesting other Balancing Services be included within the RBS Guidelines such as DNO services and new reserve products. We continue to be of the view that the standardisation of the DNO level services should be monitored, to establish if these need to be captured under the RBS framework in future so as to incentivise efficient market behaviour. We note that the new RBS governance framework will enable any necessary changes (for example, to include DNO services, or new Balancing Services introduced by NGESO) to be made quickly and efficiently. Similarly, this would be the case where it is considered that any trial services merit inclusion.
- 2.31. One stakeholder questioned why commercial intertrips had been excluded from the RBS list. Our understanding is that any commercial intertrip agreed will fall into one of the intertrip Categories, as defined in the Grid Code (see table 4), and with the commercial arrangements defined in CUSC¹⁷. These intertrips will be included in the RBS Guidelines. Where there are other commercial interstrip services, that we are unaware of and have not consulted on previously, our view is that these would be considered within the context of the amended RBS change process. We note that all other stakeholders who commented on this specifically (4 in total) supported our approach to include Category 2 and 4 intertrips only.
- 2.32. The Delivery Body in their response proposed amendments to the definition of “Declared Availability” for DM. Following further discussions with NGESO, they have

¹⁷ <https://www.nationalgrideso.com/document/91361/download>

confirmed that this amendment is required as a decision has yet to be made as to whether High Frequency (“HF”) and Low Frequency (“LF”) services for DM would be procured separately or together. They highlighted that, with the proposed drafting from the May 2021 Statutory Consultation, there is a risk that if a decision is made to procure them together then this would not be considered within the RBS Guidelines. We have therefore decided to implement, as set out below, the Delivery Body’s proposed amendment to the definition of “Declared Availability” for DM.

Balancing Service	“Declared Availability”
Dynamic Moderation	Equal to the Contracted Quantity of DM-low or DM-high or DM-high+low (as applicable) multiplied by 0.5, for the settlement period(s) in question. Where Contracted Quantity has the same meaning as defined in the Dynamic Moderation Glossary of Terms and Rules of Interpretation.

Response to additional stakeholder comments

- 2.33. A stakeholder suggested that Balancing Services should indicate within their description whether it is treated as an RBS. We agree that this would be of benefit to industry and suggest that this proposal is considered for implementation by NGESO in the guidelines for the relevant products.
- 2.34. One stakeholder raised concerns with respect to the definition and calculation of ALFCO for interconnectors. They proposed that further changes are required to the Rules to ensure that interconnectors are not unfairly penalised, for actions taken by NGESO during a Stress Event, through the existing ALFCO calculation. We intend that these proposals should be added to the list to be prioritised and considered in the future.
- 2.35. We recognise the proposal put forward by a stakeholder who suggested a wider review of the RBS process may be of benefit (see Paragraph 2.22). Whilst our view is that this suggestion is outside of the scope of our proposals, we consider that there may be merit in considering this going forward, although that this should be undertaken in line with any future work on the CM penalties arrangements.
- 2.36. Two stakeholders highlighted that the procurement of specific services will be moving to EFA blocks. We recognise the concerns raised, and that this may have implications for storage units, partaking in EFA block services, from delivering full ALFCO in a Stress

Event. We have enquired about this further, with both the Delivery Body and the two stakeholders in question, to confirm that this is not an immediate risk to our RBS proposals. However, we note that further work may be required to ensure that there are no unintended consequences of procuring Balancing Services in EFA blocks to the CM / provision of RBS by Capacity Providers.

3. Planning Consents

Section summary

We outline our decision to amend elements of the Prequalification process in relation to Relevant Planning Consents (“RPC”). This includes no longer requiring Applicants to submit evidence of RPC. We have also provided our decision to clarify the Rules and the interaction between Connection Capacity and the capacity allowable under an Applicant’s RPC.

Background

- 3.1. In the July 2020 Consultation, we discussed and proposed several changes to the RPC process. The changes proposed were in addition to our decision in the First Policy Consultation to halt the implementation of CP190, therefore allowing Applicants to be able to continue to defer the submission of their RPC up to 22 working days prior the Capacity Market Auction (the “Auction”).
- 3.2. The additional proposals are set out below.
 - 3.2.1. Remove the requirement to provide RPC documentation and replace this with a declaration stating RPC has been obtained, and allow the declaration to be deferred for up to 22 working days prior to the Auction;
 - 3.2.2 Ensure a sufficient framework exists to allow the Delivery Body to request and review further information from an Applicant to verify any declarations made with respect to RPC;
 - 3.2.3 Clarify that the RPC declaration should be made by the Legal Owner of a CMU; and
 - 3.2.4 Clarify the Rules such that where an Applicant’s Connection Capacity is greater than the capacity value under the Applicant’s RPC, then the Applicant’s Connection Capacity should be set at the value under the RPC.

Minded-to position

- 3.3 In the May 2021 Statutory Consultation, we outlined our minded-to position to continue to take our proposals forward with some further amendments based on stakeholder feedback received. This is summarised below.
- 3.3.1 Continue with our proposal to remove the requirement for RPC documentation to be submitted and replace this with a declaration stating RPC has been obtained.
- 3.3.2 Where the Despatch Controller and Legal Owner are two different entities, we proposed that the declaration (i.e. that RPC has been obtained) is made by the Despatch Controller via a check box within the EMR Delivery Body Portal (the “Portal”). Our view was that this process is no different to the existing process in place and would circumvent Portal access issues. To clarify, this proposal was made following review of stakeholder concerns raised in response to the July 2020 Consultation where we proposed that the declaration should be made by the Legal Owner.
- 3.3.3 We proposed that Applicants will be able to defer the RPC declaration for up to 22 working days prior to the Auction. However, where this has been deferred, the Applicant would also be required to submit a Director’s Certificate, in addition to the RPC declaration, 22 working days prior to the Auction for assurance purposes.
- 3.3.4 We proposed to amend Rule 8.3 to allow the Delivery Body to request further information regarding any declaration made by an Applicant with respect to the RPC declaration.
- 3.3.5 We also proposed that an Applicant should submit the maximum capacity allowable under their RPC alongside the declaration stating RPC has been obtained.
- 3.3.6 Further, we suggested that where the Connection Capacity exceeds the capacity allowable under the RPC, the Connection Capacity will be set to the value under the RPC and we will remove the requirement for documentary evidence to justify this by amending Rule 3.7.1(b).

- 3.3.7 We proposed the Delivery Body would redistribute the Connection Capacity among components, where applicable. We proposed that Applicants would have the opportunity to amend this redistributed Connection Capacity among components provided this is submitted to the Delivery Body by confirmation of entry to the Auction.
- 3.3.8 We proposed amendments to Rule 7.5.1 to allow the Delivery Body to update the Capacity Market Register (“CMR”) under a deferral scenario where the Connection Capacity exceeds the capacity allowable under the RPC and requires to be amended.

Consultation questions and stakeholder feedback

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?

- 3.4 No stakeholder suggested in their response that further changes would be required to the declaration process to facilitate our proposal. Two stakeholders specifically agreed with our proposals regarding the process in which the declaration is made where the Legal Owner and Despatch Controller of a CMU are different legal entities. One stakeholder suggested that amendments to Rule 4.7.1(a) would further compliment the declaration process for an Applicant with a different Legal Owner and Despatch Controller.
- 3.5 The majority of stakeholders agreed with our proposals for Applicants to no longer be required to provide their RPC documentation, but rather, declare that RPC has been obtained. Stakeholders agreed that this should be implemented for both the Prequalification stage and where an Applicant has deferred their RPC declaration. Where an Applicant has deferred their RPC declaration, stakeholders did not oppose the requirement for the declaration to be provided alongside a Director’s Certificate, two stakeholders suggested this was a sensible approach.
- 3.6 One stakeholder raised that our proposed wording in Rule 4.7.1(c) lacked clarity as to what the obligation upon an Applicant is. One other stakeholder opposed the requirement that applicants submit their maximum output capacity allowable under their RPC as it may affect competitive advantages.

- 3.7 We received two responses from stakeholders who directly agreed with our proposals to clarify the interaction between Connection Capacity and the capacity allowable under the RPC, with no stakeholders responding in disagreement to this.

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

- 3.8 Nine stakeholders believed that timescales should be prescribed such that capacity that is redistributed is enacted before confirmation of entry to the Auction. The remaining stakeholders did not provide a response or did not have any specific comments. Stakeholders raised that redistribution should not take place after confirmation of entry to the Auction as this could create a scenario where unviable Capacity Market Units (“CMUs”) are being taken into the Auction.
- 3.9 The Delivery Body disagreed with our minded-to position that where RPC has been deferred, Applicants are given the opportunity to amend the redistributed capacity among components, provided this is submitted by confirmation of entry to the Auction. They suggested that Applicants should inform the Delivery Body of how they wish to redistribute capacity 22 Working Days prior to the Auction and, if this is not provided, that an agreed methodology on how capacity will be redistributed is confirmed within the Rules. They felt that our minded-to position would impose a substantial time challenge on the process to redistribute and validate the capacity among components and could result in a risk to Auction data integrity. However, they recognised that the aggregated De-rated Capacity position is not a final position.

Decision

- 3.10 Following review of the stakeholder feedback received, we have decided to proceed with our amendments to Rule 3.7.1 and 4.7.1 such that Applicants would no longer be required to submit documentary evidence of RPC but rather declare that RPC has been achieved. The majority of stakeholders agreed with our minded-to position. Two stakeholders also agreed, with other stakeholders not raising disagreement, that it was appropriate that confirmation of RPC is reviewed outside the Rules between the Legal Owner and Despatch Controller.

The Despatch Controller then, as the Applicant, would declare, within the Portal, that RPC has been obtained. This process would be no different to the existing RPC process other than that there is no longer a requirement to submit evidence of RPC being obtained.

- 3.11 No stakeholder opposed our proposal that, for assurance purposes, it was appropriate to maintain, under a deferred RPC scenario, the submission of a Director’s Certificate to confirm RPC has been obtained. Two stakeholders highlighted this approach was reasonable. Taking these responses into consideration, we have decided to maintain this requirement and will not amend Rule 4.7.1(b). To confirm, submission of a Director’s Certificate would be in addition to the RPC declaration made within the Portal.
- 3.12 We did not receive direct feedback from stakeholders with respect to our proposed addition of Rule 8.3.16, which would allow the Delivery Body to request and review further evidence from an Applicant to verify any declaration made with respect to RPC. Although no direct feedback was received, we believe it is necessary for assurance purposes that the Delivery Body can review evidence from an Applicant where a declaration has been made. Therefore, we have decided to implement Rule 8.3.16.
- 3.13 One stakeholder suggested that Rule 4.7.1(a) could be amended to complement our proposal that confirmation of RPC is sought between the Legal Owner and Despatch Controller. They suggested that Rule 4.7.1(a) could be amended to state “*a declaration that the Relevant Planning Consents for the CMU have been obtained*” (i.e., such that the Applicant is not required to confirm that it has itself sought planning permission). We have decided not to amend Rule 4.7.1(a) as we believe this suggestion highlights the need for wider changes required within the Rules, where an Applicant is making a declaration. Our view is that this particular change should not be made in isolation and, if it was, that it could lead to unintended consequences.
- 3.14 One other stakeholder raised that our proposed wording of Rule 4.7.1(c) lacked clarity with respect to what the obligation on the Applicant is (i.e. that removing the requirement to submit RPC has left an incomplete sentence in the Rules). Having reviewed the draft Rule, our view is that the proposed wording is clear regarding the obligations on Applicants. We have removed the requirement to submit RPC however a relevant Applicant, under Rule 4.7.1(a), is required to

declare no later than 22 Working Days prior to the first Bidding Window that they have obtained RPC. Under Rule 4.7.1(c) a relevant Applicant is required to submit to the Delivery Body the maximum allowable capacity granted under their RPC. Therefore, we have decided to proceed with our proposed wording for Rule 4.7.1(c).

- 3.15 Three stakeholders, with the remaining not commenting specifically, agreed with our proposal to clarify the interaction between Connection Capacity and the capacity allowable under an Applicant’s RPC. Our proposal would require Applicants to declare the capacity allowable under their RPC and where this is less than the stated Connection Capacity the Delivery Body would set the Connection Capacity to the capacity allowable under the RPC. We proposed amendments to Rules 3.7.1(b), 3.7.1(c), 4.7.1(c) and 4.7.3 to facilitate this and we have decided to proceed with these amendments.
- 3.16 We note that one stakeholder disagreed with our proposal for an Applicant to declare the capacity allowable under their RPC. However, we are of the view that it is appropriate for this to be declared to ensure the integrity of the Capacity Market scheme and, moreover, to ensure compliance with planning and environmental legislation. We are seeking to ensure that Applicants are bidding in Auctions for capacity that they are permitted to generate under their RPC.
- 3.17 We proposed that where the Connection Capacity is redistributed, and the CMU has several components, that the Delivery Body would redistribute the Connection Capacity among components with the Applicant then having the opportunity to amend this, provided it is submitted to the Delivery Body by confirmation of entry to the Auction. The Delivery Body highlighted in their response the constrained timescales that they felt existed with respect to redistributing Connection Capacity by confirmation of entry to the Auction. Following discussions with the Delivery Body, we understand that the circumstances where this process may be required are rare.
- 3.18 Although we anticipate that the redistribution of Connection Capacity would be an infrequent occurrence, we recognise the Delivery Body’s concerns. Therefore, we believe it is appropriate to clarify within the Rules that redistribution of Connection Capacity must be completed by confirmation of entry to the Auction and we have taken the decision to amend Rule 4.7.3 to specify this. To confirm, we have discussed this amendment with the Delivery Body who believe it is

appropriate. We also received feedback from eight stakeholders who highlighted that it was appropriate to prescribe a deadline for when Connection Capacity should be redistributed.

- 3.19 Our view is that the process of redistributing Connection Capacity should be a joint discussion and effort between the Delivery Body and the Applicant, and we anticipate that both parties will engage in this process. However, the Delivery Body will amend the Prequalification guidance to highlight that where an Applicant does not make clear how Connection Capacity should be redistributed, or the Delivery Body is unsuccessful in engaging the Applicant, then a standard methodology to redistribute Connection Capacity would apply.
- 3.20 We recognise that redistribution of Connection Capacity may have implications for our proposals to increase data transparency on the CMR, specifically in displaying component level information through CP270 and CP271. We will consider this for our future consultation on Rule amendments to implement component level information on the CMR.

4 Capacity Market Register

Section summary

We provide our decision to proceed with amendments to the Capacity Market Register (“CMR”) as outlined in the May 2021 Statutory Consultation. We have also confirmed that CP270 and CP271 will not be implemented for Prequalification 2021 and will be consulted on further in a future consultation.

Background

- 4.1 We proposed to take forward CP270¹⁸ and CP271¹⁹, as noted in our Decision on the First Policy Consultation, following the implementation of OF12²⁰ which concluded in October 2019. CP270 proposed to include detailed component-level information of a Capacity Market Unit (“CMU”) on the Capacity Market Register (“CMR”). This would include information regarding the Connection Capacity, De-rated Capacity, Generating Technology Class and Fuel Type.
- 4.2 CP271 proposed to include additional information regarding Demand Side Response (“DSR”) on the CMR. This included a distinction between DSR units not supported by a generating unit.
- 4.3 In addition to CP270 and CP271, we received suggestions for further amendments to the CMR from respondents to the July 2020 Consultation which included:

¹⁸ <https://www.ofgem.gov.uk/publications/edf-energy-capacity-market-rules-cp270>

¹⁹ <https://www.ofgem.gov.uk/publications/edf-energy-capacity-market-rules-cp271>

²⁰

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897600/The_Capacity_Market_Amendment_No._2_Rules_2020.pdf

- 4.3.1 Information relating to the Substantial Completion Milestone (“SCM”) - i.e. whether the CMU is subject to SCM and the expected date the SCM would be achieved;
 - 4.3.2 Information on whether Satisfactory Performance Days (“SPD”) have been achieved;
 - 4.3.3 The amount by which a CMU has traded all or part of its obligation;
 - 4.3.4 Any Secondary Trading Entrants or CMUs that take capacity; and
 - 4.3.5 The date on which a Metering Test Certificate was awarded.
- 4.4 We noted in the May 2021 Statutory Consultation that there were several items published on the CMR which required corresponding Rule amendments to align with the Delivery Body’s current operating practice, these items are:
- 4.4.1 Credit Cover amount;
 - 4.4.2 Parent company details;
 - 4.4.3 Secondary trading details;
 - 4.4.4 Confirmation of meeting the Financial Commitment Milestone (“FCM”);
 - 4.4.5 Meter Point Administration Number details;
 - 4.4.6 Agreement duration; and
 - 4.4.7 Relevant Delivery Year.

Minded-to position

- 4.5 With respect to the implementation of CP270 and CP271, we outlined in the May 2021 Statutory Consultation that we were minded-to proceed with the implementation of CP270 and CP271 by amending Rules 3.4.5A, 7.4(a)(ii) and 7.5. However, for the reasons outlined in Section 1 of the same consultation, we proposed that

implementation would be delayed from Prequalification 2021 to a proposed date of Prequalification 2022.

- 4.6 We also outlined our minded-to position that the proposals set out in Paragraph 4.4 should be implemented for Prequalification 2021. However, information relating to the SCM and Metering Test Certificates, we proposed, should be implemented for Prequalification 2022.
- 4.7 We also discussed that the proposals outlined in Paragraphs 4.3.2 – 4.3.4 would be better suited to be reviewed as part of any future Secondary Trading workstream, due to the close association those proposals have with Secondary Trading.

Consultation questions and stakeholder feedback

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

- 4.8 Six stakeholders were supportive of the proposed amendments with the remaining 13 not having any specific feedback on the proposal or Rules drafting. In addition, no stakeholders suggested changes to the Rule drafting provided in Annex A of the May 2021 Statutory Consultation.
- 4.9 Five stakeholders noted in their response that the proposed amendments would improve market transparency. One stakeholder highlighted that the additional information, which would be made available from our proposal, would be beneficial for both policy makers and participants, including those undertaking Secondary Trading.
- 4.10 Two stakeholders suggested that improvements to the CMR should be considered alongside Secondary Trading improvements and noted that Ofgem should accelerate its Secondary Trading reform work. One stakeholder highlighted that they accepted inclusion of more detailed component information on the CMR as part of CP270/271, but questioned how much insight this gives into Auction behaviour and future policy making.
- 4.11 Another stakeholder, while supportive of our proposal, noted cybersecurity concerns and suggested that Secondary Trading details should be restricted to those with login access to the EMR Portal in an effort to prevent spam or phishing emails.

Decision

- 4.12 Taking into account the positive stakeholder feedback received regarding our proposals, we have decided to proceed with our amendments to Rule 7.4.1(d) and 7.5 such that the Rules align with the Delivery Body's current operating practice. To confirm, the amendments we will implement within the Rules are those set out in Paragraph 4.4 of this Decision Letter.
- 4.13 We can also confirm that CP270 and CP271 will not be implemented for Prequalification 2021. We expect to consult on the necessary Rules changes to implement these proposals, with the aim of implementing for Prequalification 2022. Similarly, information regarding SCM and Metering Test Certificates will not be implemented for Prequalification 2021. We anticipate these proposals will also form part of the same consultation.
- 4.14 We note comments made by two parties suggesting that Secondary Trading reform should take place as soon as possible. We have set out, in Section 1 of this Decision Letter, an update on our proposed Secondary Trading workstream.
- 4.15 Another stakeholder, while supportive of our proposal and amendments to Rules 7.4.1(d) and 7.5, noted some concerns about cybersecurity derived from publishing secondary trading details on the CMR. We take note of the stakeholder's response and confirm that we will consider this specific issue further in the context of our work on secondary trading.

5 Maximum Obligation Period

Section summary

We provide our decision to proceed with amendments to the definition of Maximum Obligation Period (“MOP”) to allow Prospective Generating Capacity Market Units (“CMU”) and Unproven DSR CMUs greater flexibility in determining the length of the Capacity Agreement they seek to apply for. We have also outlined our decision not to proceed with amendments to Rule 3.7.2(d)(ii) and Rule 3.10.1(aa)(i)(bb) as, following review of stakeholder feedback, we are of the view that amendments to those Rules are not required to implement our proposal.

Background

- 5.1 In the May 2021 Statutory Consultation, we highlighted an issue with the definition of the Maximum Obligation Period (“MOP”). This was brought to our attention via a Tier 2 Capacity Market appeal for Prequalification year 2020.
- 5.2 The definition of the MOP, under Rule 1.2, was the root cause of the appeal submitted. MOP determines the maximum length of a Capacity Agreement that can be awarded to a certain CMUs and sets out criteria that need to be met in different scenarios. However, a literal reading of paragraph (b) of the existing definition of MOP would preclude these types of CMUs from bidding for 3 year Capacity Agreements, where their Capital £/kW Qualifying Expenditure (“QCE”) exceeds the Fifteen Year Minimum £/kW Threshold, and could result in them being limited to 1 year Capacity Agreements.

Minded-to position

- 5.3 We proposed to amend paragraph (b) of the definition of MOP, in Rule 1.2, to clarify that these types of CMUs may access either a 3 year or 15 year MOP, where their QCE is equal to or greater than the Three Year Minimum £/kW Threshold, and provided that the other relevant criteria are met. We also proposed minor amendments to Rule 3.7.2(d)(ii) and Rule 3.10.1(aa)(i)(bb) to facilitate our minded-to position.

Consultation questions and stakeholder feedback

Q7 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?

- 5.4 All stakeholders who responded to this question agreed with our suggested amendment to the definition of MOP. There was agreement from these stakeholders that the existing drafting of the definition can lead to confusion among Applicants and the Delivery Body, and that amending the definition will allow for greater flexibility for Applicants. Several stakeholders also highlighted their view that Applicants can be granted Capacity Agreements for time periods less than those defined under MOP.
- 5.5 Two stakeholders requested that we clarify what impact our Rule change would have on Applicants who aim to obtain multiple, multi-year Capacity Agreements. An example given was it would be possible for a CMU to obtain a two year Capacity Agreement followed by a three year Capacity Agreement by apportioning their Capital Expenditure in a specific manner.

Q8 Do you foresee any unintended consequences as a result of implementing this proposal?

- 5.6 No stakeholders suggested that there would be unintended consequences arising if we proceeded to implement our proposal. However, two stakeholders highlighted concerns related to our proposed amendments to Rule 3.7.2(d) and Rule 3.10.1(aa)(i)(bb). They raised that the Rules as drafted would require an Applicant to confirm, under a scenario where their spend was greater than the 15 year threshold, that their project spend would be greater than the 15 year threshold and the 3 year threshold, and this would not be possible within the Portal. One stakeholder also suggested that there was no need for the consequential changes to Rules 3.7.2(d) and 3.10.1(aa)(i)(bb).
- 5.7 The Delivery Body highlighted that whilst they agree with the intent of amended Rules 3.7.2(d) and 3.10.1(aa)(i)(bb), there would be a requirement to implement a Portal change to allow for the implementation of these Rules and they would support implementing these changes for 2022 (as there is not sufficient time to implement a Portal change prior to Prequalification 2021). The Delivery Body also proposed

alternative wording for Rule 3.7.2(d) and Rule 3.10.1(aa)(i)(bb) to reduce ambiguity with respect to the intent of the proposed Rule change.

Decision

- 5.8 We have decided to amend the definition of MOP in the Rules, to ensure that the Rules reflect the policy intent. We note that no stakeholders opposed this approach.
- 5.9 We have further concluded that the proposed amendments to Rules 3.7.2(d) and 3.10.1(aa)(i)(bb) are not necessary. On reflection, we agree with the stakeholder who suggested that there was no need for consequential changes to these Rules. We are of the view that simply changing the definition of the MOP achieves the aims of the policy intent. By indicating the level of QCE (as per Rules 3.7.2(d) and 3.10.1(aa)(i)(bb)), an Applicant is stating the category that the expected spend will fall into. Our change to the definition of MOP will mean that a relevant CMU, who indicates a QCE of greater than the 15 year threshold, will be able to access an MOP of 3 or 15 years (where they meet the additional relevant criteria).
- 5.10 We note the comments made by two parties, who requested clarity on a particular scenario relating to Applicants who may wish to obtain multiple, multi-year Capacity Agreements, with the same CMU. We are of the view that this question is beyond the scope of the proposed Rule change. We do not think that our amendment to the definition of the MOP has any bearing on this issue, and we would welcome further engagement on this point if there are concerns about the clarity of the Rules in this area.

6 Previous Settlement Period Performance

Section summary

We confirm our decision not to progress with proposals outlined in the July 2020 Consultation to allow Applicants to use Satisfactory Performance Day (“SPD”) data to satisfy the requirement of providing data regarding Previous Settlement Period Performance. We are of the view that the Connection Capacity workstream led by BEIS will lead to a holistic set of proposals for the benefit of a wider set of Capacity Providers.

Background

- 6.1 Under existing arrangements, Capacity Market Units (“CMU”) must provide, in their Prequalification application, three Settlement Periods on separate days in the 24 months prior to the end of the Prequalification Window, where the CMU delivered a net output equal to or greater than its Anticipated De-rated Capacity.
- 6.2 We proposed in the July 2020 Consultation to allow the requirement to provide Settlement Period data to be fulfilled using an Applicant’s previous Satisfactory Performance Days (“SPD”) data. We proposed this would only be applicable where the prequalifying CMU is in an identical form to when it delivered upon its capacity obligations over the past two delivery years.
- 6.3 We also highlighted that our proposal could overlap with BEIS’s forthcoming review on Connection Capacity.

Minded-to position

- 6.4 Following stakeholder feedback received we proposed our minded-to position, in the May 2021 Statutory Consultation, not to progress with our proposals regarding Previous Settlement Period Performance.
- 6.5 Stakeholders raised in their feedback, to the July 2020 Consultation, potential wider impacts of the change and implementation concerns. They also raised that our proposals would be of limited benefit to all categories of Capacity Providers.

- 6.6 We were also aware of the forthcoming review of Connection Capacity being led by BEIS and were of the view that this workstream would provide a holistic set of proposals which will be of benefit to a wider set of Capacity Providers.

Consultation questions and stakeholder feedback

- 6.7 We received feedback from three stakeholders regarding Previous Settlement Performance. Two stakeholders welcomed changes to make administration easier for participants, with reference to using historic SPD data. This position was outlined in the July 2020 Consultation. Another stakeholder highlighted that they would be seeking to submit a Rule change to allow for greater data visibility and utilisation within the Capacity Market.

Decision

- 6.8 Having considered and taken into account the responses from stakeholders, we remain of the view that the Connection Capacity workstream led by BEIS will result in greater benefits for a wider set of Capacity Providers. Therefore, we have decided not to progress with our proposals related to Previous Settlement Period Performance. We will support BEIS on future work in this area.