

22 October 2020

Office of Gas and Electricity Markets

10 South Colonnade
Canary Wharf
London
E14

For the attention of Harry Parsons, Mark Carolan, GB Wholesale Markets

Email: EMR_CMRules@ofgem.gov.uk

Non-confidential

Dear Harry and Mark,

Capacity Market Consultation

Drax Group plc (Drax) owns and operates a portfolio of flexible, low carbon and renewable electricity generation assets – providing enough power for the equivalent of more than 8.3 million homes across the UK. The assets include Drax Power Station, based at Selby, North Yorkshire, which is the country's single largest source of renewable electricity. Drax also owns two retail businesses, Haven Power and Opus Energy, which together supply renewable electricity and gas to over 350,000 business premises.

We welcome this opportunity to comment on the Capacity Market (CM) Rules change proposals, in particular the proposals to facilitate the efficient operation of the CM and reduce regulatory complexity and burden¹.

Amendments to Rule 4.4.4.

Question 1: Do you agree with our suggestion to allow changes to a Generating CMUs configuration between Prequalification and delivery? Do you think that a similar amount of flexibility should be provided to Generating CMUs during Delivery Years?

One of our main concerns with Rule 4.4.4 is that the term 'configuration' is not a defined term in the Rules. The lack of clarity of this intention of this Rule unnecessarily restricts capacity providers from making commercial decisions for their assets, which can create to unintended consequences.

Our view is that the physical configuration of a CMU should not matter as long as the unit is able to deliver the same committed Auction Acquired Capacity Obligation (not more or less). We see no reason why there should be any restriction on what can be amended, provided that the CMU continues to meet its de-rated capacity (potentially using a different de-rating factor) and any change does not increase the possibility of non-delivery on any Capacity Obligations. We believe this flexibility should extend throughout the life of the delivery obligation.

¹ https://www.ofgem.gov.uk/system/files/docs/2020/07/capacity_market_rules_change_consultation.pdf

We note that Ofgem's proposal is to allow changes to Fuel Type, Generating Technology Class, Metering Arrangement and Connection Capacity. We think it is also important to clarify that the number of Balancing Mechanism Units could change.

We do not believe that a deadline ahead of delivery should be imposed on any changes, as the termination fees are sufficient to incentivise CM providers to make changes they are confident will not impact on their delivery assurance.

If a Generating CMU changes any fundamental aspect of its CMU, we would support the re-demonstration of satisfactory performance testing and metering tests, to ensure that the possibility of non-delivery on any obligations has not increased as a result of the changes.

We also support the creation of a register of generating components, to enhance transparency and remove opportunities for gaming.

Question 2: Do you have any views on the suggested level of assurance that should be necessary for CMUs who would undergo changes of components?

If a Generating CMU changes any fundamental aspect of its CMU, such as Generating Technology class, we would support the re-demonstration of satisfactory performance testing and metering tests, to ensure that the possibility of non-delivery on its original AACO has not increased as a result of the changes.

Question 3: Are you aware of any unintended consequences introduced by our proposals on Rule 4.4.4, including any other Rules which may need amendment to avoid conflict?

If the term "configuration" is used in an amended Rule 4.4.4, we would like it to be defined to ensure clarity and avoid potential unintended consequences.

Question 4: Should there be a limit of the number of times a CMU undergoes a change of component(s), and the number of components that can be changed? If so, how many and why?

If a CMU has changed its components and demonstrated that the new components can deliver AACO, there should be no reason why it should not be able to change components again.

Question 5: Should there be a point in the lead up to delivery, after which changes in components should not be permitted? If so, when and why?

We do not believe that a deadline ahead of delivery should be imposed of any changes, as the termination fees are sufficient to incentivise CM providers to make only such changes they are confident will not impact on their delivery assurance.

Evergreen Prequalification

Question 6: Are you aware of any Rules which may need to be changed to ensure that the principle of 'evergreen' Prequalification can be implemented?

We are not aware of any Rules that would need to be changed. however certain information will need to be required for each prequalification round, e.g. historic performance data, emissions declarations for some types of CMUs. This should not however prevent evergreen prequalification from being implemented.

Question 7: Is there any information provided during Prequalification which would prevent this from being an effective change?

In order to make the move to 'evergreen' prequalification effective, CM providers need sufficient time to adjust to new requirements. Changes should be signposted and timings should allow for industry to be consulted on changes to the portal.

Question 8: Do you have any feedback on the proposal to look at reforming the method by which exhibits are submitted and signed?

We support the proposed changes to submitting and signing exhibits, including the use of electronic signatures and new exhibits being required where there is a difference to the previous application. We note that, even with 'evergreen' prequalification, there may be changes to applications from year to year (e.g. historic performance, data/emissions declarations) and it is not clear from the consultation whether these changes would require new certificates.

It is also not clear how prequalification exhibits could be managed within the portal where signatures are required by directors, i.e. is it the intention that directors should have access to the portal, as this could create more administrative burden.

Question 9: Do you know of a reason to maintain the requirement to provide Exhibits annually?

No.

Prequalification Data

Question 10: Do you agree with our proposal to remove the Previous Settlement Period Performance requirement in cases where Applicants are prequalifying a CMUs, which has previously delivered upon its Capacity Market Agreement obligations in the previous two Delivery Years?

We support the proposal to allow prequalification performance to be based on prior years Satisfactory Performance Data. This requirement should be optional rather than mandatory to ensure that the Capacity Provider can prequalify a lower amount than in previous years, if it chooses. It should also be restricted to CMUs being prequalified with the same components/"configuration" as in previous years.

Question 11: Do you see any unintended consequences related to delivery assurance associated with our proposal?

No.

Question 12: Should the Previous Settlement Period Performance requirement under Rule 3.6A.1 also be removed for Interconnector CMUs?

No comment.

Planning Consents

Question 13: Is the proposal outlined in paragraphs 5.12.1 to 5.12.4 appropriate – do you think any amendments should be made?

We support the proposal outlined.

Question 14: Do you agree with our proposal to clarify who should make an associated planning declaration when the Despatch Controller and legal owner are separate companies?

No comment.

Question 15: Do you have any views on our proposal to clarify the Rules when the RPC states the maximum output of the New Build CMU is smaller than the Connection Capacity?

No comment.

Capacity Market Register

Question 16: Do you have any comments on our proposals to add the information outlined in paragraphs 6.5.1 to 6.5.7, paragraph 6.6, 6.9.4, along with the CP2701 and 271 proposals to the CMR?

We support the move to more detailed component level information in the CMR as well as inclusion of credit cover amount, parent company details, secondary trading details, confirming of meeting FCM and SCM, date on which a Metering Test Certificate is awarded, MPAN details, agreement duration and relevant delivery year on the Register.

We also support re-vamping the format and consistence of the registers. Currently the registers are one per auction year, T1 & T4, with different layout, which makes it difficult to build a system to extract the data.

We also believe that further information on defaulting CMUs should be included, i.e. where termination notices have been issued in respect of CMUs.

Question 17: Do you have a view on our proposal outlined in paragraph 6.18, to record the new CMR information items additions proposed for capacity providers who hold valid capacity agreements, where the information has already been collected at the time of application?

No comment.

Reporting requirements

Question 18: Do you agree with our proposal, outlined in paragraph 7.9, to remove progress reports and corresponding ITE assessments for the scenarios detailed, and replace with an alternative reporting milestone?

We support the proposal to remove the requirement to submit some of the progress reports and ITE assessments. ITE reports are expensive and overburdensome so should be restricted to the absolute minimum to provide necessary delivery assurance. Given levels of termination penalties, a CM provider for a New Build CMU is incentivised to meet relevant milestones and our view is that self-certification (rather than third party verification) is appropriate. We would go further and remove all ITE reports.

Question 19: Do you have any views on the timing of the proposed new reporting milestone?

We support the proposed approach, as it can assist with T-1 capacity setting. We would also note that for some projects 22 months is still longer than their construction time and therefore 18 months may be more appropriate for some projects. Satisfaction of this milestone should be added to the Capacity Market Register for relevant CMUs.

Question 20: Do you have a view on whether the new reporting milestone should be implemented with a corresponding termination event? Should the proposed reporting milestone have to be validated by an ITE?

We don't believe a corresponding termination event is necessary, nor should ITE validation be required. A statement from the Capacity Provider that the milestone report is true and correct in all material respects would suffice.

Question 21: Do you have a view on what information should be included as part of any update given to the Delivery Body in relation to the proposed reporting milestone?

We support clear signposting as to the format of the report and the information required (update on construction progress and progress to satisfaction of SCM). It would be useful if a reporting template could be provided for each individual milestone. This would improve consistency of reporting and ease the burden on the Delivery Body by removing the need to interpret reports of different formats.

Question 22: Is the current definition of “material change” clear enough – do you have any suggestions on how it could be amended/clarified?

To avoid uncertainty, material change should be expressed as a loss of [specify] MW or delay of [x] months.

Question 23: Should the proposed amendments to reporting requirements be applied to all capacity providers who hold Capacity Agreements that have not expired or been terminated when these Rules changes come into force?

We support that these amendments apply to all current holders of relevant CANs and not just those securing agreements in the future.

The current framework applies different vintage of Rules to different delivery years, depending on when the agreements were awarded. This creates a lot of complexity and we would request that a specific set of Rules is published for each vintage of agreement, rather than the current framework of one set of Rules which embed different provisions which apply to different vintage of agreements and creates a document which is very difficult to follow. That set of Rules should be referenced in the CAN for the relevant CMU.

Applicant notice

Question 24: Do you believe it is appropriate to amend the Rules to mandate the Delivery Body to send a formal notice to an Applicant, as well as an update to the CMR, when their corresponding Prequalification Status changes from ‘Conditionally Prequalified’ to ‘Not Prequalified’?

We support this decision as it avoids any doubt over the status of the CMU.

Question 25: Are there any other changes that should be proposed relating to the notice(s) issued by the Delivery Body to an Applicant?

We support one channel for notices from the Delivery Body to CM participants. At the moment, some notices are sent via the portal, some by email and some by Egress.

Outstanding areas of the First Policy Consultation

Question 26: Do you agree with our proposal to include Category 2 and 4 intertrips as Relevant Balancing Services in Schedule 4?

Yes.

Question 27: Do you believe Category 3 intertrips should be included as a Relevant Balancing Service in Schedule 4?

This should not be included. This has been agreed with the customer and therefore the customer will have factored this into decision to enter the CM already.

Question 28: Do you think that the Relevant Balancing Services list in Schedule 4 should be updated to include the Trans European Replacement Reserve Exchange?

Developments in Project TERRE mean that its inclusion may no longer be appropriate.

More broadly, we would favour a more flexible and future-proof approach that ensures the Relevant Balancing Services (RBS) list is kept up to date as new relevant services are introduced or existing services are removed. We also believe that the list should be widened to include services provided to DNOs. At the moment there is a lack of parity between the way in which transmission and distribution generators are treated when their units are constrained because of DNO/ESO action to reduce output.

We would be happy to discuss any aspect of our response with you further if it would be helpful.

Yours sincerely,

Claire Sedgwick

Submitted via email

Drax Group plc