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Ofgem
GB Wholesale Markets Team
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Dear Harry Parsons, Mark Carolan

Re: Consultation on Capacity Market Rules change proposals

Conrad Energy is the largest flexible generation platform in the GB energy market, with advancing plans to develop, own and operate 2GW of flexible generation and long duration storage projects strategically located around the DNO networks.

Our assets are designed to respond quickly to market signals and provide local energy at the point of need, while also providing ancillary services to National Grid.

Conrad's portfolio of flexible generation provides fast reserve and highly flexible support. With the recent purchase of Viridis Power, Conrad Energy now has 600MW of assets in operation and construction across 45 projects.

We are generally supportive of Ofgem's Rule change proposals. Our key message in this response is in relation to the principles-based approach to relevant balancing services in relation to penalty events. It should be the case that a generator does not generate if asked not to by a DSO/ESO. The CM rules should not provide perverse incentives to generators to ignore contractual or system safety protocols. Trying to keep on top of the evolving products will not be practical. In addition, the rules applying to network outages are overly complicated and only apply to transmission connected generators, leaving distributed generators at a lopsided disadvantage.

Yours sincerely

Graz Macdonald
Head of Regulation & Policy
Conrad Energy Limited

Appendix – Detailed response to consultation questions

Amendments to Rule 4.4.4

Related to Rule 4.4.4 and components, though not addressed in any of the questions below, we note that the CM Register is extremely badly laid out for the purpose of even the simplest analysis. Having components on a different line, not linked to a CMU makes meaningful sorts and basic data manipulation all but impossible.

We would request that the concept of components is completely removed. Should Ofgem decide against this, then we request that the component information be added to the CMU row in the CM register, rather than occupying its own row.

It has not been raised in this consultation, however, in the interest of streamlining and simplification, it should be the case that parties can purchase a new build CMU agreement and transfer the agreement to their own site, without going through mid or post-sale location change. This could be achieved through pre-approval of the location details (like for secondary trading) and then a transfer of the CM Agreement. Currently this can only happen with the ownership transfer of a CMU and so adds complicated legal hurdles to CM agreement management.

Further, it should be possible to location change a CMU to separate locations. So long as the derated capacity is being met, what reason is there for not permitting a CMU to be spread out between locations?

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?

We agree with Ofgem's proposal at a minimum but would go further and remove Rule 4.4.4 entirely. It seems that there is no value to the consumer in itemising the components of a CMU when what matters is whether the derated obligation is delivered. Removal of Rule 4.4.4 is a great opportunity to simplify the rules and reduce administrative burden for capacity providers and the Delivery Body, with no loss of integrity to the primary function of the CM – to deliver security of supply to consumers.

Notwithstanding our strong preference for removal of Rule 4.4.4, we see no reason for full flexibility of component changes before and during the Delivery Year.

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?

Our view is that there is very little risk with sites that change components within a CMU. The only risk we can see, which should be addressed via the metering test, is that a component is not delivering against more than one CMU. So long as the CMU can meet its derated obligation, and that capacity is not double counted, then there should be no risk to security of supply, nor ability to game the system.

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?

As noted above, it is our view that the metering test requirements, and the requirement to notify of changes to metering configuration should sufficiently address what little risk there is for unintended consequences in doing away with components (Rule 4.4.4), or allowing changes, as Ofgem have proposed.

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?

There should not be any limit if Rule 4.4.4 is kept. The focus should remain solely on whether the derated capacity of the CMU is being delivered.

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?

No. So long as capacity is being delivered for the purpose of providing consumers with security of supply then there should be the least intrusive administrative requirements possible. We would like to draw attention to the desire of BEIS, Ofgem, we presume the Delivery Body and the whole of the industry for simplification of the rules.

Evergreen Prequalification

We do not have any specific comments on this section, except that we think that the key priority is that people are not failed for minor and inconsequential reasons. Is it really in the consumers' interest that so much resource across industry is employed every summer in looking for typos and trying to second guess what minor pedantic detail that the Delivery Body will be choosing to focus in on that year? An example of this being the absurd 'Ltd' versus 'Limited' debacle.

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?

No comment.

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

No comment.

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

No comment.

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

No, we can think of no reason why this is required.

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?

If an existing site delivered its capacity obligation, then it should not need to provide historical generation at prequalification. It should be made clear though that if a CMU traded away its obligation over the previous delivery year then it should need to provide the evidence of historical generation.

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?

Interconnectors should not participate in the CM as they are already subsidised through the cap and trade regime and so are double dipping, distorting the capacity market and providing misleading investment signals. The CM Regulations clearly state that subsidised capacity cannot participate in the CM so interconnectors should not be permitted.

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 agree that planning deferral should be made explicit. This will reduce the burden on the Delivery Body when doing their prequalification assessments.

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?

The Rules in relation to this should remain high level and discrepancies should be explained in the covering letter. If a prescriptive solution is employed, it is almost certainly going to have unintended consequences.

Capacity Market Register

In addition to our responses to the questions below, we suggest that the CMR be published on a consolidated basis. This will make it easier to compare years and/or CMUs and obligations. At the very least a consolidated CMR, covering all Delivery Years, should be published every quarter.

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 CP270 and 271 proposals to the CMR?

We are content with the proposals. However, we would request that all the CMU information be kept on the same row. Utilising different rows for different components makes it very difficult to analyse the CMR. We note that very few CMUs have component level data on the CMR, so it should not be difficult to redesign the CMR and make it easier for the rest of industry to use and analyse. It should also result in fewer CMR errors by the Delivery Body.

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?

The CMR needs to be streamlined to be consistent with the EMR Portal.

We propose the following columns be removed entirely as they serve no purpose:

- Storage Facility – this is already clear by the Primary Fuel Type and Generating Tech Class.
 - A single Connection Capacity Column to simplify the register.
 - A single De-rated Capacity Column to simplify the register.
 - Removal of all Anticipated De-Rated Capacity Columns.
 - Removal of all Metering Assessment Questions – not required for CM Users.
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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 agree with the proposed removal of progress reports and corresponding ITE assessments for construction reports.

We would go further though and propose that the requirement for the ITE reports for the FCM also be removed. The directors are required to sign off on expenditure, and the Board is required to make the FID. The project expenditure and FID does not actually provide certainty of project delivery, as circumstances can change, and a prudent investor will not throw good money after bad should the investment climate or the project circumstances change – and the termination penalties already counteract this risk. Therefore, requiring an ITE report to verify expenditure does not provide value for money.

We understand the need for ITE reports for SCMs but it should be the case that there is only one report required for the SCM, incorporating the Extended Years Criteria, project spend, and that the site is operational – this would significantly reduce costs. Further, we propose a statutory cap on how much an ITE can charge for a report. For parties (like us) with many CMUs, the cost of ITE reports is prohibitive without evidenced proportional benefit to security of supply or the consumer.

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

With proposals for terminations for missed reporting deadlines and given the complexity of the Rules and timelines and milestones, we suggest that the Delivery Body sends targeted reminders of upcoming deadlines. Such reminders should be CMU and company specific, as a generic email that does not specify company and CMU can cause a lot of panic! For parties with many dozens of CMUs and numerous companies, it can take hours to check all companies and CMUs to see which ones the Delivery Body is referring to in one of their generic emails.

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 are sympathetic to the proposal for termination in paragraph 7.9.4. However the DB must provide three months' notice of the milestone deadline and there must be a pre-termination process whereby the DB contacts Capacity Providers to remind them rather than an automatic termination trigger, and to enable fast and efficient rectification and save everyone time and hassle in cases where the formal appeals process is not necessary where a sensible solution is available.

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?

To reduce ITE costs we propose that the Delivery Body provide an ITE report template that the ITE is free to amend where necessary.

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

A material change to a milestone should be defined as 9-12 months, so long as the change does not mean that the SCM will occur after the start of a Delivery Year.

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?

The reporting requirements should apply to all agreements that have not expired or been terminated, except the termination event should only apply to agreements entered into after this Rule has been made.

It is fine for an Applicant to specify at the milestone if they believe they will be delivering a lower AACO, or higher capacity than planned, but this should be voluntary. Declaring that the AACO may be lower should not preclude the Applicant from then delivering higher capacity at the SCM as per their Agreement.

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'?

Our only comment on this is that communications from the Delivery Body should always include the company name and CMU ID(s) to which the email relates.

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

The Delivery Body should stop using Egress. Not only is it inconvenient, but the email trails disappear after a time. This is not acceptable from an audit perspective and potentially very costly to Capacity Providers if they are unable to produce disappeared evidence of an email transaction with the Delivery Body in two or five years' time.

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?

We strongly urge Ofgem to avoid a prescriptive approach which will only mean that the list is never complete with new services with the DSO and/or ESO being developed every month.

Instead, we suggest that a principled based approach. A CM provider should be exempt from penalties if a DNO or ESO required that the party does not generate, whether contractually, or for safety or system stability reasons. It is in no one's interest for parties to be incentivised to operate against industry codes or DSO/SO instructions.

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

No comment.

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?

No comment.
