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**Consultation on Capacity Market Rules change proposals**  
22 October, 2020

Dear Harry

Thank you for opportunity to comment on the above proposed changes to the Capacity Market rules, as outlined in Ofgem's consultation document of 22 July. This response is made on behalf of Uniper.

We generally agree with most of the changes proposed in the consultation document, but have some comments on points of detail. Also, we have included some views on Ofgem's present minded to position not to implement any changes in the adjustment of interconnector ALFCOs for actions taken by the System Operator. This wasn't subject to a specific question in the consultation document, but our comments are included at the end of our response.

Our answers to the specific questions raised are as follows:

**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?**

Yes we agree. What is important to customers is that security of supply is met at minimum cost. As long as the delivery of obligations is not compromised then this rule should be relaxed. We also believe that similar flexibility should be provided within Delivery Years as suggested. In order to avoid undue discrimination, we assume that this facility will also be available to existing generation, for example to enable a unit to be replaced with an identical uncontracted unit on the same site.

Reform of the secondary trading arrangements would also help prevent discriminatory treatment between different classes of CMU. In particular, if secondary trading was permitted from just after the T-4 auction for the relevant Delivery Year, it would provide generation with similar flexibility to that currently provided to DSR CMUs allowing the movement of obligations between plant in different locations. Of course, we appreciate that the review of secondary trading arrangements is taking place separately from this consultation.

**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?**

We note the question in para 2.20 of the consultation about whether a CMU should have to re-demonstrate its ability to meet its Auction Acquired Capacity Obligation within the same Delivery Year if there is a change in configuration within Delivery Year. It is acknowledged in the consultation that DSR CMUs do not currently have to meet such a requirement if changes in configuration are made within the Delivery Year, but it is suggested that this may be because DSR testing would be too onerous. In other words the benefit from the test is not seen as worth the effort of performing it. This would seem to suggest that such a requirement would not be particularly beneficial per se and therefore that the obligation should not be retained for other capacity providers either. Therefore, we agree with the point made in paragraph 2.22 that the proposals for rule 4.4.4 should align with those for DSR CMUs being introduced by BEIS.

**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?**

No.

**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?**

At this point any limit would seem to be arbitrary. Of course, if in reality such changes are made with a frequency that puts existing resources, processes and systems under stress, then perhaps a limit might need to be considered in due course.

**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 believe that the focus should be on ensuring delivery of capacity in the year concerned, which should be delivered through retaining the assurances set out in 2.16 of the consultation. It seems inconsistent to set a deadline for changes made prior to the delivery year, if changes within the delivery year are to be allowed. However, a certain period may be needed to allow for changes to take effect, so that the delivery partners have the time required to process reallocations, over and above existing workloads.

**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?**

This could be a useful change for some applicants, but we note that the existing process allows for a significant amount of cloning of data between different prequalification years. Therefore, the benefit might be limited.

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

Not that we are aware of, over and above our comments above in our response to question 6.



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

Yes. Consideration should be given to retaining the use of electronic signatures for future years.

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

No.

**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?**

It appears sensible. However, if data is available to produce the SPD information then it is also likely to be to meet the PSPP too, so the benefit may be limited for most capacity providers.

**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?**

Yes, it would seem consistent to do so.

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

Yes. It would also be sensible to review more generally the information that applicants are required to submit at the prequalification stage in order to simplify the process and remove any items that with experience it has become apparent that the delivery body does not use. Perhaps more reliance should be put on the incentives around delivery and performance, particularly in light of changes proposed to reconfiguring CMUs under Rule 4.4.4.

**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?**

Whilst we understand the principle behind this proposal, it is not clear how the legal owner would make this declaration if it was not registered to use the portal. We would suggest that the declaration be made by the legal owner, but is then submitted by the Despatch Controller.

**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?**

Our understanding of the proposal is that where a RPC allows for a site capacity which is lower than that implied by the Connection Capacities of the associated CMUs, their Connection Capacities will be capped at the level stated in the RPC. If this is the case, then we are uncertain as to why rule 3.7.1(b)(iii), which requires the applicant to provide technical explanation of the difference, would be retained.

Is the proposal to remove the current wording of this rule and replace it with the effective capping of Connection Capacity at the level implied by the RPC? If so, the rule will need to recognise that RPC limits will tend to cover the site and not be set at the individual unit level. Given the complexities around planning and capacity levels contained in consents, it may be worth considering limiting the extent to which CM rules set additional requirements around planning, as this is of course already enforced under planning rules and regulations.

**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?**

Yes, we agree with all proposals. Transparency of data is important for the efficient operation of markets and for performance assurance purposes. In addition to the above information, we believe that it would also be helpful to publish when a termination notice has been issued, as this poses a risk to any party seeking to agree a secondary trade in respect of the affected CMU.

It would also be helpful if the CMR were to highlight when and where changes had been made. This would prevent parties from having to put in place processes for comparing different versions of the register in order to do so for themselves.

**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?**

We agree with this proposal.

**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?**

Yes, as we mention in our answer to question 13, it would be helpful to remove less useful elements of prequalification and rely on incentives around meeting obligations more. These proposals seem to fit with that.

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

This seems appropriate.

**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?**

A termination event seems extreme for missing the deadline for providing the report by a reasonably small amount of time, if applied to a new 15 year agreement. Something more proportionate such as initially losing the benefits of the Agreement for the first contracted delivery year could be applied instead, with the missing volume being included in the T-1 target. Subsequent delays would then be expected to lead to termination due to failure to meet minimum completion milestone.

**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?**

Yes, we would suggest this could include: the amount of capital committed on a £/kW basis; the expected time to completion of the improvement project and details of any major elements of the works that has not yet been contracted.

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

This seems appropriate.

**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?**

Yes.

**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’?**

Yes.

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

No.

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

Yes. Our understanding of Category 2 and 4 intertrips is that they are introduced through no choice of the generator. Therefore, they are not regarded as a generator opting for a lower standard of connection. This is in contrast to a Category 1 intertrip which is installed as a result of a generator opting for a non standard connection design, which clearly would not be appropriate to include in the definition of RBSs.



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

This is less obvious than the case to include Categories 2 and 4. A Category 3 intertrip could be included as a result of a generator not wanting to wait for a third party system (such as a DNO network) to be reinforced. Therefore, in this context it would be regarded as a generator opting for a non firm connection. However, if there are instances where the generator has a Category 3 intertrip imposed on them, then it would seem appropriate for these to be included as RBSs.

**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?**

Yes, in principle this is the correct thing to do, although we accept that there is presently some doubt as to whether NGESO will be able to access the platforms necessary to implement TERRE in GB.

**Treatment of actions taken on Interconnectors**

In section 9 of the consultation, Ofgem proposes that changes to the adjustment of ALFCO for interconnectors, to reflect instructions which only affect part of the capacity of the interconnector, should not be implemented in light of the work being undertaken by BEIS to introduce direct participation by non GB capacity providers. Whilst we understand that rationale, it is possible that the introduction of such a complicated change as direct participation could be significantly delayed, meaning the distortion caused by the present treatment of interconnectors could persist for some time.

We note Ofgem's view that this is not an issue which presents a significant delivery risk in itself or penalises parties unduly. However, it is an issue which results in the assurance regime being implemented in a discriminatory manner which undermines competition in the market. It seems a reasonably straight forward change so we believe that it should be implemented, in respect of existing capacity agreements as well as future ones.

I hope the above comments prove helpful. Please do contact me should you wish to discuss this further.

Yours sincerely

Paul Jones  
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Uniper UK Limited