

20 October 2020

Mark Carolan
Ofgem
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Sent by email to: EMR_CMRules@ofgem.gov.uk

Dear Mr Carolan

Consultation on Capacity Market Rules change proposals

The Flexible Generation Group (FGG) represents the owners of and investors in small scale, flexible generation. These power stations are embedded in distribution networks and provide a variety of vital services to the system operator to help it deliver secure, economic supplies to electricity customers. We also participate in the Capacity Market (CM) and have made significant investment in new capacity on the back of CM agreements; we have delivered more new capacity than any other group of GB companies. We therefore welcome the opportunity to comment on Ofgem's review of the CM.

Ofgem's proposals

1. Rule 4.4.4

The FGG believes that this rule should be deleted. It serves no useful purpose and stops parties making the most economic decisions when deploying new plant or considering the refurbishment of sites. All the CM should be worried about is the delivery of operational capacity that is the equivalent to their obligation.

At the point of taking on a new agreement parties have often not chosen their exact equipment so at pre-qual simply put it will be a gas plant, having learnt from others about the risk of 4.4.4 creating a termination. There has never been a robust definition of a component, so the DB's interpretation is what binds people. Once plant is built an owner may want to change technologies, for example they are diesel and want to switch to gas in light of changes in environmental legislation. There seems to be no benefit to anyone in not allowing as many technology changes as an owner wants, on the condition the CM obligation is met, which is checked by SPDs.

2. Evergreen Prequalification

The FGG is generally supportive of this proposal, but it needs to be noted that there are always new things being added, this year it was emissions statements, and rarely has anything taken out of the pre-qual process. It may therefore be worth a wider review of the pre-qual information that is required, for example do we need components, just fuel type and size seem sufficient.

We welcome the idea that parties could change information, but would not have to if it is all still correct. There would also need to be a system where the Delivery Body notifies all parties of what is new and needs to be completed. The Delivery Body generally needs to make its communications far more targeted, so the party knows that they apply to them specifically. The current approach with blanket e-mails makes it more difficult for parties to comply with the rules, as well as clogging in-boxes with multiple e-mails that do not refer to specific CMUs and leave parties wondering whether they have an issue and if they do with which CMU.

FGG also noted that if a party pre-qualifies one year and changes nothing the next, then the Delivery Body should not be able to fail them. This is something we have already seen and needs to be stopped, if the Delivery Body has got it wrong in a previous year they should get the party to correct the information but not fail them.

There should be wider consideration of simplification of pre-qual requirements. For example, we would also delete the OS Grid Reference. We do not believe this serves any useful purpose. There used to be a mantra about rule simplification and we believe Ofgem could go further than it proposes.

3. *Removal of Unneeded Data*

FGG support allowing all data to roll forward, in particular SPDs becoming your proof of ability to meet your obligation would stop time wasting in uploading data the Delivery Body already has.

4. *Planning consent*

FGG support Ofgem's proposals to remove the requirements to submit Relevant Planning Consents at Prequalification and instead replace this with a declaration stating it has been gained. The deferral option of 22 days before the Auction for the submission of this declaration also seems appropriate. We would be surprised if parties would risk building without planning.

We also welcome the clarification of the relationship between Connection Capacity and the maximum output contained in Relevant Planning Consents as the Delivery Body does not seem to actually check any of this information. As noted below we do believe that some form of auditing by the Delivery Body would be a better way to keep parties honest.

5. *Progress reports*

FGG agree with the proposal to reduce reporting requirements except for FCM and SCM remedial plans, extended years and the long stop, which still seems like quite a lot of reporting. Again, we have concerns that these reports are time consuming and costly, and we are not convinced that the Delivery Body does anything useful with them.

We would also note that the failure to provide some of these reports does not result in any sanctions. However, where sanctions do apply the Delivery Body must be required to contact parties before they issue termination notices. We are aware of a number of occasions where terminations are issued only for the party to point out to the Delivery Body they have complied with the rules, but once a termination notice is issued the party has no choice but to appeal.

6. Relevant Balancing Service

FGG recognises that the original change proposal was around including TERRE as a relevant service, which served to highlight the problem that services come and go, as ODFM did over the summer. The group therefore proposes that the definition of the services covered were moved to some form of annex that could be updated as necessary with no rule change and, in a world of DSOs accommodate DNO ancillary services as well.

It may be possible to create a definition that is more accommodating, such as a party being required to follow any instruction given directly to them by either the ESO or DSO. Confirmation of those instructions could then be given to EMRS after a CM event. This would allow for changes in balancing services and also cover BM actions.

7. Notices

Any clarification on the notices sent by the Delivery Body are to be welcomed. FGG would also like to see Ofgem telling the Delivery Body that they can no longer use Egress to communicate with parties. This system seems to be against the rules (1.6.1). Egress creates a lot of problems, notably a lot of parties cannot open the messages and they delete themselves after a period of time, so there is no ability to create audit trails. Were the Delivery Body to want or need a new communications system it should have consulted on what to use, and raised a rule change to allow them to use it. This has been a flagrant breach of the rules and must be stopped.

The vast majority of the communications from the Delivery Body are very poorly worded, not identifying the CMU id to which it relates. They also have no way to follow-up to say a Q&A on the website. As an example, on the weekend of 26 September 2020 they sent an e-mail saying that prequalification for 2019 was shut; was this just a year late? We would urge the Delivery Body to employ a communications expert to help them to improve the way they try to help the market deliver on their obligations.

On the CM Warnings, we would also like to see these communicates improved. All system warnings should be on one web-site, as proposed by GC0109. The recent CM Warning event also showed that the text messaging system did not work. If parties are told they can use a text system they will rely on that system, so it must work and it must be tested. For some parties the 4 hours warning is crucial in getting their plant up and running in time and therefore a system needs to be reliable.

Communications also need to be a two-way street. We would like to see the Delivery Body have some form of issues management where a party can call, and the same Delivery Body person sees that problem through to its resolution. This could be done with some form of account management system, but at the very least the Delivery Body should be answering the phones and actively trying to resolve issues. In our experience it is all too often that parties have to chase to get answers to their problems.

8. Wider Issues

Other issues FGG members wanted to raise were:

8.1 DNO outages – a site that has a TO outage does not face penalties, but those with a DNO outage do. This is unduly discriminatory and would have seen a number of DNO connected CMUs penalised if the CM warning in September has actually resulted in a CM event.

8.2 Location changes – Ofgem should clarify that sites do not need to be the same to allow a location changed to progress, they must just be compliant with the rules. We have seen location changes refused because the new site is more ready than the older site, for example the site has a connection agreement and the old one does not. If the rules require the sites need connections at the time of the location change then that is fine, but the Delivery Body should not be making up requirements that are not in the rules.

8.3 Secondary Trading – FGG note that Ofgem has said that they will review the secondary trading rules. This needs to be done urgently. As we get into Delivery Years when parties were impacted by the State Aid issue and then covid the market is trying to trade agreements, but it is extremely difficult and takes too long if a party is trying to complete a trade before the start of the delivery year.

8.4 SPDs – we remain of the view that these are unnecessary and the Delivery Body's current interpretation is also incorrect. Where parties trade they find their SPDs prorated, so if your plant has a technical failure on 2 October the party is still liable for at least one SPD. As the party may know they cannot achieve this and will be terminated, it removes the incentive to trade the agreement for the rest of the year. Ofgem should clarify their view on SPDs and if they believe pro-rating them is appropriate this should be clearly written into the rules so all parties understand their obligations.

FGG believes that SPDs would be a more meaningful test if the ESO were to call plant to test them. For the vast majority of CMUs this will happen as part of their business as usual, either via the BM or ancillary services contracts. Any others not covered by these agreements are likely to represent a small volume of energy and calling each should not be onerous, or they could opt to do the three days as set out in the rules.

8.5 Extended years – Ofgem may be unaware that the Delivery Body has altered their position on how and when extended criteria rules are complied with. One FGG member has had to do this more than once as the Delivery Body had lost the forms, for which the Delivery Body faces no sanction and the party has to carry the costs. This is therefore an area where we believe clarity is required.

8.6 Adding capacity to existing CMUs – FGG is aware that this has been discussed in the past and we agree that for most cases there would be a need to separate new capacity from old capacity. However, were a party to upgrade an existing CMU such that it increased its capacity, we see no reason that such a CMU cannot take on additional obligations of the same vintage that the rest of the CMU is delivering. For example, if a site is delivering a T-4 2016 agreement and its capacity increased by say 2MWs then it should be able to add T-4 2016 capacity up to its new derated capacity. We believe that this would be an efficient improvement to the market and do not believe it will add any administrative problems.

8.7 New CM Portal – The parties have been promised a new portal for some time. We want to register our disappointment that no one has been consulted on what they want from the portal that continues to cause problems for those trying to use it. For example, no registered users can be deleted, but disabled creating concerns when parties buy assets that this function may not be working properly.

There are also concerns about how the DB is going manage the ever-expanding number of CMUs when the “registers” are simply unwieldy spreadsheets. Not only does this make it difficult for the DB to manage all the sites, but it makes it challenging for the CM owner, where it has multiple CMUs of different vintages, to keep up with the requirements of each. Having a dedicated account manager or the ability to link CMUs into parent company groups may be alternative ways to make CM agreements easier to manage. As FGG members all own multiple CMUs, we would welcome further discussions with the DB and Ofgem around ways to make this more efficient for everyone.

If you would like discuss any of the issues raised in this letter, or have other ideas you wish to test with the market, please do not hesitate to contact us.

Yours sincerely



Mark Draper
Chairman, Flexible Generation Group