

Consultation

Consultation on Capacity Market Rule amendments (Evergreen, CMR and Applicant Notice)

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We are consulting on changes to the Capacity Market Rules 2014 (as amended). We would like views from people with an interest in the Capacity Market. We particularly welcome responses from Capacity Market participants. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation closes, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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Executive summary

We¹ are consulting on amendments to the Capacity Market Rules 2014 (as amended) (the “Rules”) and providing our minded-to decision on the policy areas outlined in Table 1. We have previously consulted on these policy areas in July 2020 and May 2021 and have further developed our thinking after review and consideration of the stakeholder feedback received to those previous consultations. We welcome feedback from stakeholders on our minded-to decision and our proposed Rule amendments.

Table 1: Policy areas and minded-to decision

| Policy Area | Minded-to decision |
|-------------------------------|---|
| Evergreen Prequalification | <p>We are minded to amend the Rules such that there is an option to reuse certain Exhibits and additional information, for a maximum of 4 years, from a previous successful Capacity Market Application. This is providing that these elements from the previous Application remain compliant with the Rules. Nevertheless, Applicants would still be required to submit Exhibits annually, including an Exhibit declaring that their Application meets the requirements of the Rules.</p> <p>To confirm, where elements of a previous Application have been reused these will not automatically be “pre-approved” but will be subject to the formal Prequalification assessment process undertaken by the Delivery Body.</p> <p>For Fossil Fuel Emissions Declarations, the existing Rules will continue to apply.</p> |
| CP270 ² | <p>We are minded to proceed with the implementation of CP270 which would enable component-level information for Generating Capacity Market Units (“CMU”) to be displayed on the Capacity Market Register (“CMR”). This includes:</p> <ul style="list-style-type: none"> • Primary Fuel • Generating Technology Class |

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/publications/edf-energy-capacity-market-rules-cp270>

| | |
|---|---|
| | <ul style="list-style-type: none"> • Connection Capacity • De-rated Capacity |
| CP271 ³ | <p>We are minded to partially proceed with the implementation of CP271 which would enable the CMR to display whether a Demand Side Response CMU includes an On-Site Generating Unit, and if so, information on:</p> <ul style="list-style-type: none"> • Capacity of the On-Site Generating Unit • Primary Fuel of the On-Site Generating Unit <p>We are no longer proposing to proceed with the CMR displaying the Generating Technology Class of the On-site Generating Unit.</p> |
| Substantial Completion Milestone ("SCM") data | <p>We are minded to amend the Rules such that the CMR would display:</p> <ul style="list-style-type: none"> • Whether a CMU is subject to meeting their SCM • The earliest and latest dates SCM is expected to be achieved |
| Metering Test Certificate data | <p>We are minded to amend the Rules such that the CMR would display the date on which a Metering Test Certificate was awarded to a CMU.</p> |
| Applicant Notice | <p>We are minded to amend the Rules to allow the EMR Portal to notify a Conditionally Prequalified Applicant that their Prequalification status has changed to 'Not Prequalified' or 'Prequalified' as applicable.</p> |

³ <https://www.ofgem.gov.uk/publications/edf-energy-capacity-market-rules-cp271>

1. Introduction

Context and related publications

1.1. We have published several consultations regarding policy proposals driven from the Five Year Review of the Capacity Market Rules (the “Rules”), most recently in May 2021. We are now consulting on Rule amendments to a number of the outstanding proposals previously consulted on in July 2020 and May 2021, these consultation documents are listed below:

- Capacity Market Rules change consultation, 22 July 2020, (the “July 2020 Consultation”)⁴
- Statutory Consultation on Capacity Market Rules change proposals, 14 May 2021 (the “May 2021 Statutory Consultation”)⁵
- Decision on Amendments to the Capacity Market Rules, 5 July 2021, (the “July 2021 Decision Letter”)⁶

What are we consulting on?

1.2. This Statutory Consultation provides our minded-to decision on three outstanding policy areas previously consulted upon in the May 2021 Statutory Consultation, these areas are: Evergreen Prequalification, further amendments to the Capacity Market Register and changes to Applicant Notices. We are seeking feedback from stakeholders on our proposed amendments to the Capacity Market Rules to implement the aforementioned policies. We expect that changes to the Rules will be implemented by the 2022 Capacity Market Prequalification window with proposals delivered through the new Electricity Market Reform (“EMR”) Portal.

1.3. We recognise that the delivery of the new EMR Portal has previously been delayed, therefore we agreed with the Delivery Body to bring forward Rule amendments, and this consultation, for those policy areas which directly impact Prequalification. The Delivery

⁴ <https://www.ofgem.gov.uk/publications/consultation-capacity-market-rules-change-proposals>

⁵ <https://www.ofgem.gov.uk/publications/statutory-consultation-capacity-market-rules-change-proposals>

⁶ <https://www.ofgem.gov.uk/publications/decision-amendments-capacity-market-rules>

Body is aiming to release the new Portal prior to the 2022 Prequalification window, this would allow Applicants to use the Portal for 2022-2023 Capacity Market Applications. Prioritising policies which impact the Prequalification process would provide the Delivery Body with a forward view of the Rules framework which the Portal would be developed against and should reduce the risk of further delay to Portal development.

Section 1: Evergreen Prequalification

- 1.4. In this section we provide our minded-to decision regarding reuse of Exhibits and other information for Prequalification. We propose that Applicants would be able to reuse certain Exhibits where there are no changes to that Exhibit since it was previously used as part of a successful Application. Applicants would still be required to submit all Exhibits annually including an Exhibit to declare that their Application has been completed in accordance with the Rules and Regulations. We are of the view that Exhibits, and other information, should only be reused after the 2022 Prequalification Window and onwards and for a maximum of 4 years.

Section 2: Capacity Market Register

- 1.5. We provide our minded-to decision on amendments to the Capacity Market Register ("CMR") which include the implementation of CP270 and partial implementation of CP271. Alongside this, we provide our minded-to decision regarding publication of whether a Capacity Market Unit ("CMU") is subject to meeting the Substantial Completion Milestone ("SCM") and if so the earliest and latest dates SCM is expected to be achieved. We also provide our minded-to decision for the CMR to display the date a Metering Test Certificate is awarded to a CMU.

Section 3: Applicant Notice

- 1.6. We provide our minded-to decision to proceed with the implementation of changes to the Rules such that, where an Applicant has Conditionally Prequalified, they are notified of any status change via the EMR Portal.

Rule changes and Annex A references

- 1.7. We have provided draft Rule amendments for each of the policy areas we are consulting on and welcome feedback from stakeholders on our amendments. The policy areas have a corresponding [OF#] which are included for ease of establishing the corresponding Rule amendment in Annex A, as seen in Table 2.

Table 2: Summary of CMR proposals

| Policy area | OF# reference in Annex A |
|---------------------------------------|--------------------------|
| Evergreen Prequalification | [OF41] |
| Capacity Market Register | |
| CP270 | [OF42] |
| CP271 | [OF43] |
| Substantial Completion Milestone data | [OF44] |
| Metering Test Certificate data | [OF45] |
| Applicant Notice | [OF46] |

Consultation stages

1.8. This Statutory Consultation will be open until 5pm on 14 January 2022, with the aim of issuing our final decision on Rule amendments in early 2022. Following our decision, we aim to implement the amended Rules prior to the opening of the 2022 Prequalification Window.

How to respond

1.9. We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document’s front page.

1.10. We’ve asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.

1.11. We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

1.12. You can ask us to keep your response, or parts of your response, confidential. We’ll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit

permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

- 1.13. If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 1.14. If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 1.
- 1.15. If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

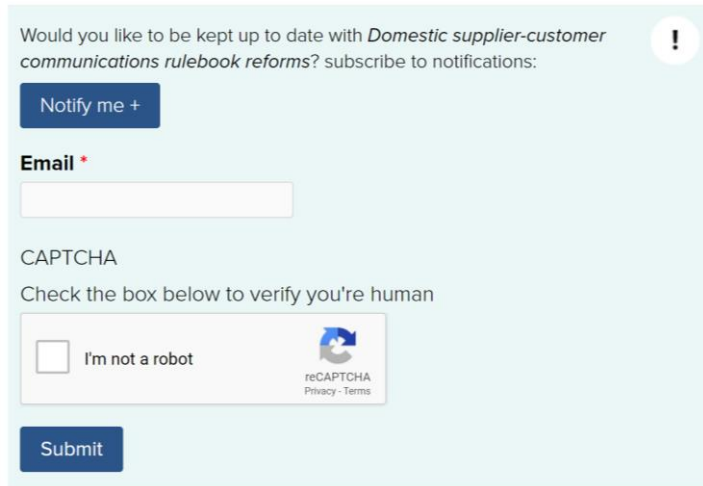
- 1.16. We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:
 1. Do you have any comments about the overall process of this consultation?
 2. Do you have any comments about its tone and content?
 3. Was it easy to read and understand? Or could it have been better written?
 4. Were its conclusions balanced?
 5. Did it make reasoned recommendations for improvement?
 6. Any further comments?


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

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations).

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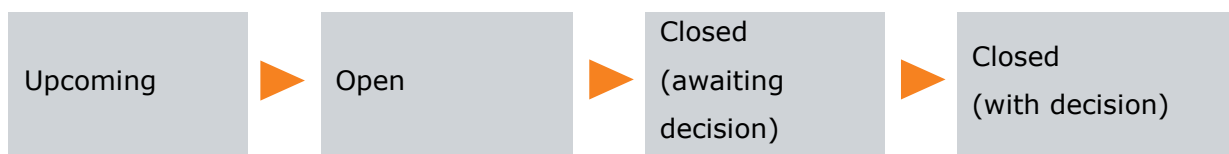
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Check the box below to verify you're human

I'm not a robot 
reCAPTCHA
Privacy - Terms

Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:



2. Evergreen Prequalification

Section summary

In this section we provide our minded-to decision regarding reuse of Exhibits and other information for Prequalification. We propose that Applicants would be able to reuse certain Exhibits where there are no changes to that Exhibit since it was previously used as part of a successful Application. Applicants would still be required to submit all Exhibits annually including an Exhibit to declare that their Application has been completed in accordance with the Rules and Regulations. We are of the view that Exhibits, and other information, should only be reused after the 2022 Prequalification Window and onwards and for a maximum of 4 years.

Questions

Question 1: Do you agree with our proposed Rule amendments to facilitate the implementation of reusing Exhibits and other information?

Background

- 2.1. We first discussed the proposal of Evergreen Prequalification in the Five Year Review of the Capacity Market Rules (the “First Policy Consultation”)⁷, published in April 2019, with the aim of reducing administrative burden on Applicants during the Prequalification process. We further developed this proposal in the July 2020 Consultation. Upon review of the stakeholder feedback received, we developed the proposal further and published an updated minded-to position in the May 2021 Statutory Consultation.
- 2.2. Our most recent minded-to position regarding Evergreen, from the May 2021 Statutory Consultation, is summarised below:

⁷ <https://www.ofgem.gov.uk/publications/five-year-review-capacity-market-rules-first-policy-consultation>

- 2.2.1. Currently Applicants are required to submit new Exhibits during the Prequalification Window on an annual basis irrespective of whether the information within the Exhibits has changed or not. Under our proposal, Applicants would no longer be required to submit new Exhibits at each Prequalification Window but instead would be able to choose from an option to reuse those Exhibits where no change in information has occurred from when those Exhibits were previously used in a successful Application. To achieve this, we proposed amending the existing suite of Exhibits such that they were no longer year specific.
- 2.2.2. With respect to previous data required with respect to previous Settlement Period Performance, we stated that this would only be valid for two subsequent Prequalification rounds before new data must be provided by Applicants, as the current Rules allow in some cases.
- 2.2.3. Under the proposal detailed in May 2021, Applicants would have been required to submit an annual Exhibit to declare that existing Exhibits remain valid or have been amended as appropriate. Where the annual Exhibit was not provided by an Applicant then it would have been considered that the Applicant had not applied for the current Prequalification round. Our view was that the annual Exhibit would provide sufficient assurance without substantially increasing administrative burden.
- 2.2.4. Our minded-to view was that the new EMR Portal should be developed to allow Applicants to generate and manage Exhibits within the Portal. This includes incorporating the use of electronic signatures.

Feedback from stakeholders

- 2.3. Whilst we did not ask stakeholders specific questions in relation to reusing information at the Prequalification stage in the May 2021 Statutory Consultation, 12 respondents (out of a total of 18) provided general feedback regarding our latest minded-to position outlined in the same consultation.
- 2.4. Nine of these responses reiterated support for Evergreen. No stakeholder responded in disagreement with the general concept of Evergreen. However, all stakeholders expressed disappointment that Evergreen was not implemented by Prequalification 2021.

- 2.5. Three stakeholders were still of the view that the annual Exhibit would create a large administrative burden for Applicants and two of these stakeholders suggested the burden could be reduced by having a tick box within the EMR Portal as the annual declaration. One stakeholder highlighted their view that as the onus is still on Applicants to ensure that Exhibits are updated as the Rules change, this could lead to more errors during the Prequalification process as detailed Rules knowledge would be required.
- 2.6. With regard to electronic signatures, several stakeholders directly welcomed our minded-to view that these should be utilised within the Portal in the future. However, three stakeholders raised that retrieving director signatures can be an onerous process, particularly during the Prequalification period due to Summer Annual Leave, and requested that the Capacity Market accepts signatures from employees with Delegated Authority.

Discussion and minded-to decision

- 2.7. Our minded-to position outlined in the May 2021 Statutory Consultation was shaped by feedback received from stakeholders responding to the July 2020 Consultation. Since then, we have further developed our proposals through discussion with the Delivery Body and consideration of stakeholder feedback to the May 2021 Statutory Consultation.
- 2.8. We are of the view that Applicants should be able to reuse certain Exhibits at Prequalification where those Exhibits were previously used in a successful Application and provided those Exhibits still comply with the Rules and Regulations. We have also proposed Rule amendments such that Applicants may reuse previously submitted declarations and other additional information which formed a successful Application, providing that the declarations and additional information are still compliant with the Rules and Regulations. Under our proposals, Applicants will still be required to submit their Application in full even where previous Exhibits and/or other information is being reused. The Application must be submitted by the Applicant, and it will be subject to a full Prequalification assessment conducted by the Delivery Body.
- 2.9. Our view is that any change to an Exhibit and/or other information submitted previously to form a successful Application would deem that Exhibit and/or other information not reusable for the current round of Prequalification. Changes may be driven from differing underlying information or Rules changes.
- 2.10. We envisage there being two options available to Applicants during Prequalification:

Option 1 – Applicants can submit a new suite of Exhibits as a new Application.

Option 2 – Under our proposal, Applicants can reuse certain Exhibits where there is no change to those Exhibits from the previous Prequalification round, that the Exhibit was used to from a successful Application, and the current Prequalification round. Applicants would still be required to submit all Exhibits annually, irrespective of whether Exhibits have been reused or have been created as a new Exhibit. To clarify, changes to the Exhibit could be driven from either Rule amendments or changes in underlying information relating to that Exhibit. For example, a change in company director would require a new Exhibit signed by the new director.

- 2.11. We also propose that Exhibits should only be reused from the 2022 Prequalification Window and onwards, i.e. Exhibits submitted prior to the 2022 Prequalification Window cannot be reused. This would allow the Delivery Body to capture all Applicant information through the new EMR Portal without the need to migrate data from the previous EMR Portal thus reducing the risk of any further delay to the launch of the new Portal.
- 2.12. We are mindful that the Rules may change at pace which could impact what an Applicant would be required to submit at Prequalification. Therefore, we are of the view that it is appropriate to set a timeframe for how long information from a previous successful Application can be reused. This would ensure that the Rules are actively being reviewed by Applicants and would reduce the risk of Applications being submitted which are not compliant with the Rules and Regulations. We propose that information from a previous successful Application should only be reused for up to a maximum of 4 years. For example, an Exhibit which was submitted during the 2022 Prequalification Window may only be reused up to and including the 2026 Prequalification Window.
- 2.13. We previously proposed that Exhibits would be amended to be non-year specific to allow for the implementation of reusable Exhibits. We are minded to not proceed with this proposal as proceeding with this may reduce the ability to monitor when an Applicant has submitted a “new” Exhibit and may prevent monitoring of the number of years an Exhibit is being reused.
- 2.14. We are still minded to pursue the implementation of the Annual Exhibit. We recognise that the term “Annual Exhibit” may lead to some confusion for stakeholders therefore to confirm our position, the Annual Exhibit is a declaration stating that an Application has been completed in accordance with the Rules and that Exhibits, or other information which is being reused, remain valid. We have proposed amendments to Exhibit A to

facilitate this. Under our proposals, Exhibit A cannot be reused but instead must be submitted as a new Exhibit by an Applicant each time they apply to participate in the Capacity Market. Where an Applicant fails to submit this or any other applicable Exhibit, whether reused or new, before closure of the Prequalification Window, then it would be deemed that the Applicant has not Prequalified.

- 2.15. Although most stakeholders are generally not supportive of the Annual Exhibit to declare that an Application has been completed in accordance with the Rules, we believe it is necessary for sufficient levels of assurance. With Exhibits being created and managed within the new EMR Portal, we do not anticipate this will create a substantial administrative burden for Applicants.
- 2.16. Stakeholders suggested that the Annual Exhibit could be a tick box within the EMR Portal. This would require further consideration as it has not been previously consulted on. This could delay the implementation of reusable Exhibits within the Portal, which has been identified as a priority for stakeholders. It is our view a formal change proposal should be raised for further consideration if this is deemed to be a priority for stakeholders.
- 2.17. With respect to previous settlement performance, we continue to be of the view that the existing Rules should continue to apply following implementation of our proposals. Under the existing Rules, data with respect to previous settlement performance must be from within 2 years prior to the start of the relevant Prequalification Window. No stakeholder has previously supported nor highlighted specific concerns with this proposal.
- 2.18. Similarly, we previously outlined our view that Exhibits related to carbon emission limits (Exhibits ZA, ZB and ZC) may not be able to form part of our proposals regarding reusable Exhibits. To clarify, the Rules allow these Exhibits to be reused under specific circumstances and we are proposing no changes to the Rules with respect to this. Our current proposal would closer align the other Exhibits with these (Exhibits ZA, ZB and ZC), i.e. where there is no change to the Exhibit it can be reused, however an Applicant must submit the Exhibit each time they apply to the Capacity Market.
- 2.19. Stakeholders have raised concerns that the ability to reuse Exhibits may put further onus on Applicants to ensure any previously submitted Exhibits remain compliant with the Rules. However, under existing arrangements Applicants are required to ensure that an Application is submitted in accordance with the prevailing Rules and Regulations, and this will still be the case following implementation of our proposal. Where an Exhibit is not updated, as applicable, in accordance with the Rules then an Applicant would be

deemed to have not Prequalified, with the option available to them to appeal the decision via the Capacity Market dispute resolution process⁸.

2.20. We note one stakeholder questioned why the concept of ‘Rolling’ Prequalification was not taken forward at this time. We first consulted on Rolling Prequalification in the First Policy Consultation of April 2019. Responses from a large majority of stakeholders argued there was limited benefit to Rolling Prequalification given other factors within the Capacity Market which influence whether a CMU will apply to partake in the Capacity Market Auctions and when such a decision would be made. This includes Rules changes and notice of the amount of capacity which will be procured. Given the feedback received, we took the decision to not proceed with Rolling Prequalification.

2.21. With respect to allowing employees with Delegated Authority to sign Exhibits, we agree with stakeholders that this could reduce the administrative burden on an Applicant. However, we have not consulted on this previously and it would require further development before a decision can be made to proceed. Therefore, it is our view a formal change proposal should be raised for further consideration if this is deemed to be a priority for stakeholders.

2.22. The Delivery Body have confirmed that the new EMR Portal will allow Applicants to generate and manage Exhibits within the Portal directly. They have also confirmed that the process to capture, store and reutilise data will be substantially improved. We welcome the approach the Delivery Body has utilised in developing the new EMR Portal and expect this will alleviate the majority of concerns that stakeholders have raised with respect to the existing EMR Portal. Electronic signatures will also be incorporated in the new Portal with Applicants able to directly sign documents within the Portal. These improvements are expected to significantly reduce the administrative burden on Applicants during the Prequalification process.

Table 3 Summary of Exhibits which can be reused under Evergreen

| Exhibit | Reusable? |
|--|-----------|
| Exhibit ZA – Form of Fossil Fuel Emission Declaration | No |

⁸ <https://www.ofgem.gov.uk/publications/electricity-market-reform-dispute-resolution-guidance-2>

| | |
|---|-----|
| Exhibit ZB – Form of Fossil Fuel Emissions Commitment | No |
| Exhibit ZC – Form of Fossil Fuel Removal Declaration | No |
| Exhibit A – Form of Prequalification Certificate | No |
| Exhibit B – Form of Price- Maker Certificate | No |
| Exhibit C – Form of Certificate of Conduct | Yes |
| Exhibit D – Form of Applicant Declaration | Yes |
| Exhibit DA – Form of Joint Owner Declaration for Existing Interconnector CMU | Yes |
| Exhibit DB – Alternative Form of Joint Owner Declaration for Existing Interconnector CMU | Yes |
| Exhibit DC – Form of Joint Owner Declaration for Prospective Interconnector CMU | Yes |
| Exhibit E – Form of Agent | Yes |

| | |
|--|-----|
| Nomination Form | |
| Exhibit F – Form of Aggregator Declaration | Yes |
| Exhibit G – Form of Legal Owner Declaration | Yes |
| Exhibit H – Form of Aggregator Transfer Declaration | No |
| Exhibit I – Form of Legal Owner Transfer Declaration | No |
| Exhibit J – Form of Funding Declaration | No |

Questions

2.23. Do you agree with our proposed Rule amendments to facilitate the implementation of reusing Exhibits and other information?

3. Capacity Market Register

Section summary

We provide our minded-to decision on amendments to the Capacity Market Register ("CMR") which included the implementation of CP270 and the partial implementation of CP271. Alongside this, we provide our minded-to decision regarding publication of whether a Capacity Market Unit ("CMU") is subject to meeting the Substantial Completion Milestone ("SCM") and if so the earliest and latest dates SCM is expected to be achieved. We also provide our minded-to decision where the date a Metering Test Certificate is awarded to a CMU is published on the CMR.

Questions

Question 2: Do you agree with the draft Rules to implement CP270 and the partial implementation of CP271?

Question 3: Do you agree with our proposal where Applicants would provide the "Primary Fuel" for each Generating Unit or Component comprising a CMU?

Background

3.1. We consulted on a number of changes to the Capacity Market Register ("CMR") in the May 2021 Statutory Consultation, with many of these proposals implemented for the 2021 Prequalification round. We are now consulting further on those areas which were not implemented. These areas are:

3.1.1. CP270 and CP271

3.1.2. Information on whether a CMU is subject to the Substantial Completion Milestone ("SCM") and the expected date SCM would be achieved

3.1.3. Date on which a Metering Test Certificate was awarded

CP270 and CP271 background

3.2. CP270 and CP271 were originally considered as part of our 2017 Rules change process. These proposals aimed at improving market transparency and provide greater clarity of the capacity operating with the Capacity Market. With implementation of CP270 and CP271, the CMR would display the component level information of a CMU including:

- Connection Capacity
- De-rated Capacity
- Generating Technology Class
- Fuel Type
- Information regarding the inclusion of an On-Site Generating Unit and if included its capacity, Primary Fuel Type and Generating Technology class (applicable to Demand Side Response, "DSR", only).

Substantial Completion Milestone and Metering Test Certificate background

3.3. We previously proposed to publish information on the CMR regarding whether a CMU was subject to the SCM and the expected date on which SCM would be achieved. In response to the Open letter on the Five Year Review of the Capacity Market (the "Open Letter")⁹, published in September 2018, it was raised that this information would benefit various workstreams being led by National Grid Electricity System Operator ("NGESO") and would allow for a more accurate view of forthcoming capacity. This change would also align with the publication of Financial Commitment Milestone ("FCM") on the CMR.

3.4. Proposals to publish when a Metering Test Certificate had been awarded to a CMU were also received from stakeholders responding to the Open Letter. We outlined our intention to progress with this change in the May 2021 Statutory Consultation having reviewed stakeholder feedback received to the July 2020 Consultation.

⁹ <https://www.ofgem.gov.uk/publications/open-letter-five-year-review-capacity-market-rules-and-ngets-incentives>

Stakeholder feedback and minded-to decision

- 3.5. We summarised and responded to feedback received from stakeholders to the May 2021 Statutory Consultation in the July 2021 Decision Letter. We also set out our intention to proceed with the implementation of CP270, CP271, SCM and Metering Test Certificate data. We are still minded-to proceed with full implementation of the aforementioned proposals, with exception of CP271 where we propose a partial implementation, and welcome feedback from stakeholders on our draft Rules to implement these proposals.
- 3.6. With respect to CP271, the proposal included (amongst other changes) that the CMR should display whether a DSR CMU included an On-Site Generating Unit and, if so, display the Primary Fuel Type, Generating Technology Class and generating capacity of the On-Site Generating Unit. We note that an On-Site Generating Unit is considered a DSR component within Regulation 2 of The Electricity Capacity Regulations 2014,¹⁰ (the "Regulations") as amended. Therefore, fully applying Schedule 3 of the Rules with respect to an On-Site Generating Unit may not be applicable within this context, in particular, in relation to the Generating Technology Class. Given this, we are minded to proceed with the partial implementation of CP271, with the CMR displaying whether a DSR CMU includes an On-Site Generating Unit and if so, the Primary Fuel and generating capacity of the On-Site Generating Unit, but not the Generating Technology Class of the On-Site Generating Unit. This is aligned with the aim of CP271 which was to provide greater market transparency regarding the components of DSR CMUs.
- 3.7. We note that the definition of "Primary Fuel Type" does not allow for the Primary Fuel Type to apply at the component level of a CMU. Therefore, we have proposed Rule amendments such that Applicants provide the "Primary Fuel" at component level. We are also proposing that the CMR would display the primary fuel at component level where there are multiple fuel types, this aligns with the principles of CP270 and CP271.
- 3.8. We are minded to not proceed with CMR changes relating to displaying information regarding Satisfactory Performance Days ("SPD"), details on any Secondary Trading

¹⁰

"demand side response CMU component" means—

(a) a DSR customer's consumption of electricity as measured by a single half hourly meter; or

(b) a permitted on-site generating unit,

which forms part of the means by which a DSR provider commits to provide capacity as described in regulation 5(1)

Entrants or CMUs that take capacity and the amount by which a CMU has traded all or part of its obligation. This is the same position as outlined in the May 2021 Statutory Consultation as we are of the view that these proposals would be better suited to be reviewed as part of any Secondary Trading workstream. No stakeholder responded in direct agreement or disagreement with our minded-to position.

Table 4: Summary of CMR proposals

| Proposal | Detailed changes |
|--------------------------------|---|
| CP270 | <ul style="list-style-type: none"> • Component level information for Generating CMUs including: <ul style="list-style-type: none"> ○ Primary Fuel ○ Generating Technology Class ○ Connection Capacity ○ De-rated Capacity |
| CP271 | <ul style="list-style-type: none"> • Information on whether a Proven DSR CMU includes an On-Site Generating Unit and, if so, information on: <ul style="list-style-type: none"> ○ Primary Fuel of the On-Site Generating Unit ○ Capacity of the On-Site Generating Unit |
| SCM Data | <ul style="list-style-type: none"> • Whether the CMU is subject to meeting SCM • The earliest and latest dates SCM is expected to be achieved |
| Metering Test Certificate Data | <ul style="list-style-type: none"> • The date on which a Metering Test Certificate was awarded to a CMU |

Questions

3.9. Do you agree with the draft Rules to implement CP270 and partially implement CP271?

3.10. Do you agree with our proposal where Applicants would provide the “Primary Fuel” for each Generating Unit or Component comprising a CMU?

4. Applicant Notice

Section summary

We provide our minded-to decision to proceed with the implementation of changes to the Rules such that where an Applicant has Conditionally Prequalified, they are notified of any status change via the EMR Portal.

Questions

Question 4: Do you agree with our proposed amendments to the Rules to facilitate our Applicant Notice proposal?

Background

- 4.1. The Rules require the Delivery Body to send formal notice to Applicants under a range of scenarios. This includes decisions regarding initial Prequalification result, and the results of any subsequent Reconsidered Decision, and whether an Applicant has 'Conditionally Prequalified'. The Rules allow the Delivery Body to formally submit a Prequalification Decision notice to an Applicant via a revision of the CMR, and nothing beyond this, to notify an Applicant where they have failed to meet the conditions of their Prequalification status and hence their status has changed from 'Conditionally Prequalified' to 'Not Prequalified'.
- 4.2. In the July 2020 Consultation, we set out a proposal for the Delivery Body to notify Applicants when their Prequalification status has changed, beyond the requirement of updating the CMR. Our proposal would amend the Rules to stipulate that the Delivery Body issue formal notice to an Applicant when their Prequalification status changes from 'Conditionally Prequalified' to 'Not Prequalified'. The formal notice would be sent to Applicants through the EMR Portal. We proposed that this notice would not replace the existing requirement for the Delivery Body to update the CMR but rather be issued alongside CMR updates as part of the Applicant Notice process.
- 4.3. Our May 2021 Statutory Consultation outlined our minded-to decision to continue with the proposed changes, given majority stakeholder support for the proposal responding to our July 2020 Consultation. This minded to decision included broadening the proposal

slightly, whereby the Delivery Body would formally notify an Applicant of a status change from 'Conditionally Prequalified' to 'Prequalified' or 'Not Prequalified' where applicable.

Feedback from stakeholders

4.4. We received limited stakeholder feedback to the proposals in the May 2021 Statutory Consultation, but those that responded were directly supportive. These stakeholders highlighted that steps to improve communications between the Delivery Body and Capacity Market participants were welcome.

Discussion and minded-to decision

4.5. We are minded-to proceed with our proposals related to Applicant Notice, noting that no stakeholders responding to the July 2020 Consultation, nor the May 2021 Statutory Consultation, disagreed with our proposals.

4.6. To confirm, through our proposal, the Delivery Body will notify an Applicant where their Prequalification status changes from 'Conditionally Prequalified' to 'Not Prequalified' or 'Prequalified' (as applicable). This notification is in addition to the Delivery Body's obligation to revise the CMR where a status change has occurred.

4.7. We note that our proposal was not implemented within the EMR Portal for Prequalification 2021, but rather was implemented via an offline solution. We expect our changes would be implemented within the new EMR Portal for Prequalification 2022 with notifications being sent to the Applicant directly through the new EMR Portal.

4.8. We recognise general feedback received from stakeholders regarding communications between the Delivery Body and Capacity Market participants; this includes CMU reference IDs not being included in notices/communications from the Delivery Body. We anticipate that, with the launch of the new EMR Portal, communications between the Delivery Body and Capacity Market participants would be substantially improved. We welcome the steps taken by the Delivery Body to ensure that the new EMR Portal meets the needs of stakeholders, through the industry workshops during development, and expect this would result in a solution that would address stakeholder concerns highlighted to us through various consultations.

Questions

- 4.9. Do you agree with our proposed amendments to the Rules to facilitate our Applicant Notice proposal?

Appendix 1 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

(Include here all organisations outside Ofgem who will be given all or some of the data. There is no need to include organisations that will only receive anonymised data. If different organisations see different set of data then make this clear. Be as specific as possible.)

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for ***(be as clear as possible but allow room for changes to programmes or policy. It is acceptable to give a relative time e.g. 'six months after the project is closed')***

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas (Note that this cannot be claimed if using Survey Monkey for the consultation as their servers are in the US. In that case use “the Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in term of data protection will not be compromised by this”.

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system. (If using a third party system such as Survey Monkey to gather the data, you will need to state clearly at which point the data will be moved from there to our internal systems.)

9. More information For more information on how Ofgem processes your data, click on the link to our [“Ofgem privacy promise”](#).