

To all interested parties

Email: EMR_CMRules@ofgem.gov.uk

Date: 14 January 2022

Dear Colleagues,

Call for input – establishment of the Capacity Market Advisory Group and updating the Capacity Market Rules change proposal process

We are seeking input from interested stakeholders to inform our intention to establish a Capacity Market Advisory Group (“CMAG”) and its proposed key design features. As part of this, we intend to modify the Capacity Market Rules (the “CM Rules”) change process to incorporate CMAG. Provisions for the establishment and operation of CMAG and the CM Rules change process are set out in an update to our existing Guidance (the “2016 Guidance¹”). We welcome stakeholder feedback on the proposed update to the Guidance document (the [new Guidance](#)) that is published alongside this letter as Annex A. Annex B of this call for input provides a template for the CMAG Terms of Reference. Annex C contains the specific questions we would like feedback on.

Following consideration of the responses received, and a decision to proceed with the establishment of CMAG, we will publish the new Guidance and work with the CMAG Secretariat to establish CMAG as soon as is reasonably practicable.

Background

In our Five-Year Review of the CM Rules², published on 16 April 2019, we proposed the formation of a Capacity Market Advisory Group to increase industry and stakeholder engagement in the CM Rules change process. The group will be comprised of select industry parties and other non-industry stakeholders (for example, consumer groups) meeting regularly to develop, analyse, prioritise and recommend rule changes to the Authority³ for approval.

Following broad support for this proposal, our Report on our Five-Year Review of the CM Rules and Forward Work Plan⁴, 31 July 2019, included a minded-to decision to create CMAG. On 21 October 2019, we held a stakeholder workshop⁵ to explore the issues with

¹ Our existing Change Process for the Capacity Market Rules, last updated in September 2019, can be found here <https://www.ofgem.gov.uk/publications/final-guidance-capacity-market-cm-rules>.

² <https://www.ofgem.gov.uk/publications/five-year-review-capacity-market-rules-first-policy-consultation>

³ 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.

⁴ <https://www.ofgem.gov.uk/publications/report-our-five-year-review-capacity-market-rules-and-forward-work-plan>

⁵ <https://www.ofgem.gov.uk/publications/capacity-market-workshop-rules-change-process>

the current CM Rules change process. In this workshop, attended by around 50 representatives from industry and Delivery Partners⁶, there was strong industry support for the formation of CMAG and agreement on general principles for how CMAG could operate.

We remain of the view that the establishment of CMAG will enable the CM Rules change process to become more dynamic and adaptive to changing market conditions, as well as promoting greater transparency. As such, the creation of CMAG was identified as a priority in our 2021 Forward Work Plan, published as part of our 5 July 2021 decision to amend the CM Rules.⁷

Amending our Rules Change Guidance

We are now seeking views on a proposed update to the 2016 Guidance to support the establishment and operation of CMAG. The new Guidance ([attached as Annex A](#)) sets out proposed objectives for the effective functioning of CMAG, as well as further detail on how the CM Rules change process will operate with CMAG in place.

The new Guidance provides a framework for the operation of CMAG and describes how Ofgem and CMAG processes will interlink and complement one another. It should be used by the CMAG Secretariat and CMAG members to ensure the efficient operation of CMAG, and by CM stakeholders who wish to understand and be involved in the overall process and submit CM Rule change proposals for consideration.

Stakeholders, as set out in the new Guidance, will be able to bring forward change proposals to CM Rules that will be examined by CMAG, who will then make recommendations to the Authority. Proposers will remain able to submit CM Rules change proposals directly to Ofgem, as is currently the case. We anticipate that most change proposals will benefit from being submitted to CMAG. Exposure to wider industry expertise and scrutiny early in the process, and a forum that can consider relevant proposals holistically, should enable the development and prioritisation of robust and well-considered proposals. As part of discharging our obligation to consider proposals, we may deem it appropriate for CMAG to consider first any change proposals submitted to us directly.

The new Guidance provides details on the process for submitting change proposals directly to Ofgem, and states that proposals submitted to CMAG should follow the CMAG process. It is our expectation that the design of the process for parties to submit CM Rules change proposals to CMAG will be an initial deliverable for the Secretariat and the inaugural CMAG members. This process should be designed in accordance with the CMAG objectives. The CMAG Secretariat should provide important input on this task and produce an initial draft of the process for consideration by members. We do not consider it to be appropriate for Ofgem to direct how the CMAG process should be designed, as a central aim of CMAG is to leverage industry expertise and promote collaboration between experts and stakeholders.

As the decision-maker, and in accordance with our statutory obligations under The Electricity Capacity Regulations 2014 (as amended) (the "Regulations"), we will determine whether the recommendations made to us by CMAG are taken forward for consultation. CMAG's recommendations should be based on reasoned arguments that have been

⁶ The Capacity Market Delivery Partners consists of the Department for Business, Energy & Industrial Strategy ("BEIS"), National Grid Electricity System Operator (NGESO) who act as the Electricity Market Reform Delivery Body ("NGESO DB" or "Delivery Body"), the Capacity Market Settlement Body and Ofgem

⁷ <https://www.ofgem.gov.uk/publications/decision-amendments-capacity-market-rules>.

considered against Ofgem’s principal objective⁸, and regulation 78 of the Regulations⁹. The CM Rules change proposals brought forward by CMAG should be batched and prioritised in such a way as to optimise the number of consultations the Authority takes forward.

Proposed Secretariat and funding

We anticipate the administration of CMAG to be carried out by an independent Secretariat, based on duties that are set out in the new Guidance. To ensure the efficient facilitation and operation of CMAG, we are minded to designate Elexon as the Secretariat of CMAG. Our current view is that Elexon’s expertise makes it well suited to this role. We also consider that this role can be viewed as an appropriate expansion of their existing role as code administrators for the Balancing and Settlement Code (“BSC”), of which one of the objectives is “(f) implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation”.

We note that a BSC change would be required to enable Elexon to act as Secretariat of CMAG. In the event we appoint Elexon as the CMAG Secretariat, we will keep Elexon’s performance as Secretariat under review and seek to amend the arrangements if we consider that CMAG is not functioning effectively.

We have considered a range of possible funding options in the event Elexon is appointed as the CMAG Secretariat. In line with current Elexon funding, whereby all BSC Parties contribute to Elexon’s costs, we consider the CMAG Secretariat costs being included in Elexon’s total operational budget to be the most appropriate route for the following reasons:

- It helps to facilitate objective (f) of the BSC, which all BSC signatories accede to; and,
- We anticipate the administrative costs of CMAG to be relatively small, with costs largely related to the staff required to facilitate the convening of CMAG.

Illustrative areas of work for CMAG members

In our decision letter in July 2021¹⁰, we set out our priorities in relation to CM Rules changes. Once formed, we may ask for CMAG input to inform our analysis and decision-making on those areas of work.

In addition, there are several outstanding CM Rules change proposals where a decision from Ofgem has not been reached. The proposals are now published on our [website](#). This provides potential CMAG members with an indication of the likely areas of work.

⁸ Our principal objective is “to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems. The interests of such consumers are their interests taken as a whole, including their interests in the reduction of greenhouse gases in the security of the supply of gas and electricity to them and in the fulfilment by the Authority, when carrying out its functions as the designated regulatory authority for Great Britain, of the objectives set out in Article 40 (a) to (h) of the Gas Directive and Article 36 (a) to (h) of the Electricity Directive.

⁹ The objectives set out in Regulation 78 of the Regulations are: (a) promoting investment in capacity to ensure security of electricity supply, (b) facilitating the efficient operation and administration of the Capacity Market and (c) ensuring the compatibility of the Capacity Market Rules with other subordinate legislation under Part 2 of the Energy Act 2013.

¹⁰ <https://www.ofgem.gov.uk/publications/decision-amendments-capacity-market-rules>

Next steps

We welcome views from interested parties on our intention to proceed with the establishment of CMAG, the proposed CMAG design elements, and the content of the new Guidance ([Annex A](#)). In particular, we welcome stakeholder responses to the questions contained in Annex C to this letter.

Following consideration of responses received, and a positive decision to proceed with the establishment of CMAG, we will publish the new Guidance. At that time, we will ask stakeholders for Expressions of Interest in joining the inaugural CMAG as members.

If we decide that it is still optimal to appoint Elexon as Secretariat, Elexon will make arrangements to ensure a modification is raised to the BSC clarifying its role and responsibilities. We will make a final decision on Elexon as Secretariat once we have received a final modification report from the BSC.

Once we have reviewed responses, we will work with the appointed Secretariat to establish CMAG as soon as is practicable, with our current expectation being Q3 2022.

Responses to this call for input and all other queries should be submitted to EMR_CMRules@ofgem.gov.uk on or before 11 February 2022.

Yours Faithfully



Heather Stewart

Acting Head of GB Wholesale Markets

Annex B – Indicative template for CMAG Terms of Reference

This template for CMAG Terms of Reference is provided to help guide discussions on this matter at the inaugural CMAG. The Terms of Reference should be ratified after they have been agreed by CMAG members, including any modifications as necessary.

Vision

CMAG has been created to improve the effective functioning of the CM by enabling the CM Rules change process to become more dynamic and adaptive to changing market conditions, whilst also increasing transparency and promoting collaboration between experts and stakeholders.

CMAG objectives

See the [new Guidance](#) document on the change process for the Capacity Market Rules, paragraph 2.2.

Role of the Chair

The CMAG chair has the function of chairing the CMAG meetings. In doing so, the chair should promote participation and ensure inclusiveness and diversity of views, experience and interests in the discussions. It is important that opinions and inputs from different groups are listened to and given consideration in the CMAG recommendations. Chairing of CMAG meetings must be done in an impartial way.

The chair could be a CMAG member, either elected or with a rotational format. It is also a possibility for the Secretariat to act as chair of the meetings. It is for the CMAG members to decide the best format for the group.

Role of the Secretariat

See the new Guidance document on the change process for the Capacity Market Rules, paragraph 2.9.

Role of the Delivery Partners

See the new Guidance document on the change process for the Capacity Market Rules, paragraphs 2.10 and 2.11.

Deliverables

The following are the key deliverables from CMAG.

- Ratify Terms of Reference for the group.
- Develop a process for parties to submit CM Rules change proposals to CMAG.
- A continuously updated priority list of CM Rules change proposals submitted to CMAG and under consideration. Prioritisation should be done in accordance with three main criteria: adherence to CMAG objectives; costs to systems and market participants; and benefits (as far as they can be quantified).
- CM Rules change proposals to be submitted to Ofgem for consideration.

Frequency of meetings

It is proposed that the group will meet every two months.

Annex C – Questions

We welcome stakeholder views on all the proposals contained within this call for input and the attendant new Guidance, in particular on the areas set out below.

1. In general, do you agree with our intention to establish CMAG? If not, please explain your concerns.
2. Do you agree with the objectives and role of CMAG as set out in Section 2 of the new Guidance?
3. Do you foresee any unintended consequences from following the indicative process as set out in Section 3 of the new Guidance?
4. Do you have any concerns about the suitability of Elexon to act as Secretariat? If so, do you have a view on a suitable alternative?
5. Do you agree that levying the administrative costs of CMAG on BSC users is an appropriate funding route? Please outline any concerns and/or alternative approaches, if appropriate.
6. Do you have any comments on the indicative template for the CMAG Terms of Reference we have included as part of this call for input?
7. Please indicate if you or a suitable representative from your company or stakeholder group are provisionally interested in joining the inaugural CMAG. Please do not provide names at this stage. We will formally ask for expressions of interest when we publish the new Guidance.