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Ofgem
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Dear Ms Stewart

Establishment of the Capacity Market Advisory Group and updating the Capacity Market Rules change proposal process

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. Most of our members have participated in the Capacity Market (CM) since its inception and have made significant investment in new capacity on the back of CM agreements.

FGG therefore welcomes changes to the governance regime and hope this will be done to make the rules easier to change, the change process faster and more responsive, and encourage smaller parties to participate in developing the capacity market. While not like the other energy codes, the CM rules could benefit from a more flexible and responsive change process. Ideally, once established, the change process could also see some of the rules that sit within the CM Regulations be moved to the CM Rules to make a set of arrangements more consistent with the other energy codes.

Capacity Market Advisory Group (CMAG)

FGG support the creation of the CMAG and would like to see Ofgem ensure smaller parties have appropriate representation on this group. FGG as a group owns a significant number of CMUs, in all delivery years. For us compliance with the CM rules is therefore considerably more onerous than for a party with a few large plants. As we have also delivered the vast majority of new build CMUs, we have used the rules in anger, for example doing location changes, metering assessments, trades, etc. We therefore believe that our considerable experience will add value to the group.

CMAG's Objectives

In terms of the CMAG's objectives, we believe that this should include:

- Grouping together related changes to create a coherent set of changes to a given section of the rules where appropriate;
- To identify any impacts that cross into the regulations and alert BEIS to those issues;
- Consider if in making a rule change, parts of the regulations could move to the rules, notifying BEIS, so in the longer term a more coherent regulatory structure can be developed; and
- Identifying with impacts on other codes and alerting the relevant code administrator, for example Elexon may need to change the BSC if a change impacts data from the BSC to EMRS.

FGG is slightly concerned that the reference to Ofgem's primary duty is not in itself that helpful. That could be the primary aim, but improving the efficiency of the CM could also be a more explicit obligation, similar to the various energy code objectives.

CMAG Members

In terms of membership, it may be useful to set out how many parties are on the group and parties that should be represented. For example, 3 x TO connect, 4 x DNO connect, 2 x aggregator, customer, Delivery Body, EMRS, Ofgem and BEIS. Or it could be done via type of provider, such as conventional, storage, DSR, etc. We note that the BSC also has the ability for the Chair to select members to fill any gap they see as existing, so for example, in the early days of the BSC this was a CHP party. There needs to be a balance between representation and a workable number of members, but also recognise that quoracy is often a code change issue, so a group with a bigger core membership may be useful.

CMAG Member Changes

FGG does not support having a new CMAG every year. Running the recruitment process, getting approval by Ofgem, helping parties get up to speed on issues, etc. will be too resource intensive. We would support a group existing for say 3-4 years, more in line with other Panels. Continuity will be important in progressing more complex changes. It is also not clear who is chairing the group, at one point it suggests Elexon and in another it seems open. FGG would support an independent chair or Elexon taking on the role. However, the group or the parties need a right to remove the chair or request a replacement if required.

CMAG Meetings

If a rule change is very complex, the CMAG should be able to hold ad hoc meetings and or ask for parties to sit on a sub-group/working group to dig into the detail in the way other codes' working groups do.

Administrative Issues

While FGG supports Elexon being the administrator of the new process, that are some questions that still need to be answered:

- It is not clear who is writing the legal drafting. Is this to be done by Elexon or Ofgem?

- When proposals are submitted where are they published? If it is Ofgem's website then that also needs to be where all the CMAG meeting dates, prioritisation lists, working papers, minutes, etc. are also published. FGG does not favour using the Delivery Body website as it is very poorly designed, but Elexon may be able to create a new website for the purposes of the CM governance process.
- Can BEIS also use the group to help it develop rule changes?
- Should a CMAG consultation have a minimum consultation period, say 4 weeks?
- Is the CMAG making a recommendation to Ofgem or just working up proposals and passing them to Ofgem for approval?
- Should the CMAG have a target to get changes to Ofgem and Ofgem a target for making decisions?

FGG proposes that some form of process document is created so all parties understand how the change process will work, who does what and when.

Change Progression

On the process, it would see more logical that the CMAG receive change proposals (unless a party specifically want to send them to Ofgem in confidence) and CMAG then checks that the change proposals are duly made (it is a CM issue, etc.), do not link to other changes, etc. The CMAG can then work up any details as required, consult, then the secretariat prepare a report to Ofgem with analysis of the responses, etc.

This then uses the expertise of the CMAG to check and if necessary develop a proposal, and then fine tune as a result of any consultation responses. This would be more in line with other code processes and leave the heavy lifting to the CMAG and not Ofgem. FGG is also not aware that anyone in the Ofgem CM team has been involved since the CM was designed, whereas the industry has considerable expertise within it.

For proposals to be considered at the next CMAG meeting, they would need to be submitted X days ahead for checking (part of the change process that needs to be set out). Elexon should have a critical friend role and could also provide a note to the CMAG if an issue is not self-explanatory. A proposer should be invited to present their change to CMAG if they want to and answer any questions on it. The CMAG should also be able to raise changes itself, which may be to address a specific issue or complement an inflight change to create a more holistic solution.

Ofgem seem to envisage one change to the rules a year, unless a change is urgent. FGG sees no reason that there could not be say two change periods a year as is currently the case (one is done by BEIS and one by Ofgem). The CMAG should also have some freedom on whether it consults on each rule change proposal or they batched into a longer consultation. What will be important is sufficient consultation time is given and then notice to make the changes.

We hope these comments are helpful and we look forward to the CMAG starting work. In the meantime, if you wish to discuss any of the points raised further please get in touch.

Yours sincerely



pp: Mark Draper
Chairman

cc: Simon Dawes, BEIS